

PORT OF SEATTLE

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RESOLUTION NO. 3648

A RESOLUTION of the Port Commission of the Port of Seattle, authorizing the sale and issuance of limited tax general obligation refunding bonds of the Port in the aggregate principal amount of not to exceed \$117,000,000, for the purpose of refinancing capital improvements to Port facilities and providing financing for Port activities and costs of issuance; authorizing preliminary and final official statements; authorizing a Designated Port Representative to approve the sale date or dates, final principal amounts, interest rates, payment dates, redemption provisions, maturity dates and principal maturities for the bonds, appoint an escrow agent and execute an escrow agreement; providing for continuing disclosure; and providing for a negotiated sale of the bonds to Barclays Capital Inc., Siebert Brandford Shank & Co., LLC, Goldman, Sachs & Co. and Morgan Stanley & Co. Incorporated.

ADOPTED: FEBRUARY \_\_, 2011

Prepared by:

K&L GATES LLP  
Seattle, Washington

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WHEREAS, the Port of Seattle (the "Port"), a municipal corporation of the State of Washington, owns and operates a system of marine terminals and properties and Seattle-Tacoma International Airport; and

WHEREAS, the Port is authorized by RCW 53.36.030 and ch. 39.46 to issue general obligation bonds payable from, *inter alia*, regular tax levies of the Port; and

WHEREAS, the Port has issued its Limited Tax General Obligation Bonds, Series 2000B dated April 18, 2000, pursuant to Resolution No. 3393, as amended (the "2000 Bond Resolution") in the original principal amount of \$107,305,000, which remain outstanding as follows:

Maturity Year (December 1)	Principal Amounts	Interest Rates
2011	\$ 3,495,000	6.00%
2012	3,705,000	6.00
2013	3,925,000	6.00
2014	4,165,000	6.00
2015	4,410,000	6.00
2016	4,675,000	6.00
2017	4,955,000	5.70
2018	5,240,000	5.75
2019	5,540,000	5.80
2020	5,860,000	5.85
2021	6,205,000	5.90
2025	28,640,000	5.75

(the “2000B Bonds”); and

WHEREAS, the 2000B Bonds maturing on and after December 1, 2011 (the “Refunding Candidates”) are subject to redemption at the option of the Port on and after December 1, 2010 in whole or in part, and if in part, with maturities to be selected by the Port at the price of par, plus accrued interest to the date fixed for redemption; and

WHEREAS, after due consideration it appears to the Port that all or a portion of the Refunding Candidates may be defeased and refunded, thereby saving substantial amounts of debt service, through the issuance of a series of limited tax general obligation refunding bonds authorized herein; and;

WHEREAS, the Port has held a public hearing on the issuance of the 2011 Refunding Bonds (hereinafter defined) as required by Section 147(f) of the Internal Revenue Code, as amended; and

WHEREAS, in 2008, the Port executed a purchase agreement and a donation agreement with BNSF Railway Company to acquire a rail corridor in King and Snohomish counties (the “Corridor”); and

WHEREAS, the Port expects that local agencies and other entities will acquire a portion of the Port's interests in the Corridor; and

WHEREAS, in order to replenish a portion of the Port funds expended in 2009 in connection with the acquisition of the Corridor, the Port shall issue a taxable series of limited tax general obligation bonds; and

WHEREAS, the bonds authorized herein shall be sold pursuant to a negotiated sale as herein provided; and

WHEREAS, the Commission wishes to delegate authority to the Designated Port Representative to approve the sale date or dates, the final principal amounts of the bonds, interest rates, designations of the bonds, principal maturities, redemption provisions, and the true interest cost of such bonds to be fixed under such terms and conditions as are approved by this resolution;

NOW, THEREFORE, BE IT RESOLVED BY THE PORT COMMISSION OF THE PORT OF SEATTLE, as follows:

Section 1.    Definitions.    Unless otherwise defined herein, the terms used in this resolution shall have the following meanings:

***Acquired Obligations*** means the Government Obligations acquired by the Port under the terms of this resolution and the Escrow Agreement, if any, to effect the defeasance and refunding of the Refunded Bonds.

***Bond Fund*** means the Port of Seattle Limited Tax General Obligation Redemption Bond Fund, 2011 created in the office of the Treasurer of the Port by Section 6 of this resolution.

***Bond Purchase Contract*** means the Bond Purchase Contract for one or both series of the Bonds, providing for the purchase of Bonds by the Underwriters and setting forth certain terms approved by the Designated Port Representative as provided in Section 13 of this resolution.

***Bond Register*** means the registration books maintained by the Registrar containing the name and mailing address of the owner of each Bond or nominee of such owner and the principal amount and number of Bonds held by each owner or nominee.

***Bonds*** mean, together, the 2011 Taxable Bonds and the 2011 Refunding Bonds.

***Code*** means the Internal Revenue Code of 1986, as amended, and shall include all applicable regulations and rulings relating thereto.

***Commission*** means the Commission of the Port, or any successor thereto as provided by law.

***Designated Port Representative*** means the Chief Executive Officer of the Port, the Deputy Chief Executive Officer of the Port or the Chief Financial and Administrative Officer of the Port (or the successor in function to such person(s)) or such other person as may be directed by resolution of the Commission.

***DTC*** means The Depository Trust Company, New York, New York, a limited purpose trust company organized under the laws of the State of New York, as depository for the Bonds pursuant to Section 5 hereof.

***Escrow Agent*** means the Escrow Agent for the Refunded Bonds appointed by the Designated Port Representative pursuant to this resolution if the Designated Port Representative determines that an escrow will be necessary or required to carry out the plan of refunding.

***Escrow Agreement*** means the Escrow Deposit Agreement, if any, dated as of the date of the closing and delivery of the 2011 Refunding Bonds between the Port and the Escrow Agent to

be executed in connection with the refunding of the Refunded Bonds, substantially in the form attached hereto as Exhibit A.

**Federal Tax Certificate** means the certificate of that name executed and delivered by the Port at the time of issuance and delivery of the 2011 Refunding Bonds.

**Government Obligations** has the meaning given such term in RCW Ch. 39.53, as now or hereafter amended.

**Letter of Representations** means the blanket issuer letter of representations from the Port to DTC.

**MSRB** means the Municipal Securities Rulemaking Board or any successors to its functions. Until otherwise designated by the MSRB or the SEC, any information, reports or notices submitted to the MSRB in compliance with the Rule are to be submitted through the MSRB's Electronic Municipal Market Access system ("EMMA"), currently located at [www.emma.msrb.org](http://www.emma.msrb.org).

**Port** means the Port of Seattle, a municipal corporation of the State of Washington, as now or hereafter constituted, or the corporation, authority, board, body, commission, department or officer succeeding to the principal functions of the Port or to whom the powers vested in the Port shall be given by law.

**Refunded Bonds** means the Refunding Candidates designated by the Designated Port Representative pursuant to Section 13 of this resolution.

**Refunding Candidates** mean the 2000B Bonds maturing on and after December 1, 2011.

**Registered Owner** means the person named as the registered owner of a Bond in the Bond Register.

**Registrar** means, the fiscal agency of the State of Washington appointed by the Treasurer for the purposes of registering and authenticating the Bonds, maintaining the Bond Register and effecting transfer of ownership of the Bonds. The term **Registrar** shall include any successor to the fiscal agency, if any, hereafter appointed by the Treasurer.

**Rule** means the SEC's Rule 15c2-12 under the Securities Exchange Act of 1934, as the same may be amended from time to time.

**SEC** means the United States Securities and Exchange Commission.

**Savings Target** means a dollar amount equal to at least three and seventy-five one-hundredths percent (3.75%) of the outstanding principal of the Refunded Bonds.

**Treasurer** means the Chief Financial Officer of the Port, or any other public officer as may hereafter be designated pursuant to law to have the custody of Port funds.

**2000 Bond Resolution** means Resolution No. 3393, as amended, adopted by the Commission on April 6, 2000 and authorizing the 2000B Bonds.

**2000B Bonds** mean the Port of Seattle Limited Tax General Obligation Bonds, Series 2000B issued pursuant to the 2000 Bond Resolution, which remain outstanding in the aggregate amount of \$80,815,000 as shown in the recitals to this resolution.

**2011 Refunding Bonds** mean the Port of Seattle Limited Tax General Obligation Refunding Bonds, 2011 (AMT), authorized to be issued in Section 3(b) of this resolution.

**2011 Taxable Bonds** mean the Port of Seattle Limited Tax General Obligation Bonds, 2011 (Taxable), authorized to be issued in Section 3(a) of this resolution.

**Underwriters** mean Barclays Capital Inc., Siebert Brandford Shank & Co. LLC, Goldman, Sachs & Co. and Morgan Stanley & Co. Incorporated.



**Rules of Interpretation.** In this resolution, unless the context otherwise requires:

(a) The terms “hereby,” “hereof,” “hereto,” “herein,” “hereunder” and any similar terms, as used in this resolution, refer to this resolution as a whole and not to any particular article, section, subdivision or clause hereof, and the term “hereafter” shall mean after, and the term “heretofore” shall mean before, the date of this resolution;

(b) Words of the masculine gender shall mean and include correlative words of the feminine and neuter genders and words importing the singular number shall mean and include the plural number and vice versa;

(c) Words importing persons shall include firms, associations, partnerships (including limited partnerships), trusts, corporations and other legal entities, including public bodies, as well as natural persons;

(d) Any headings preceding the text of the several articles and Sections of this resolution, and any table of contents or marginal notes appended to copies hereof, shall be solely for convenience of reference and shall not constitute a part of this resolution, nor shall they affect its meaning, construction or effect; and

(e) All references herein to “articles,” “sections” and other subdivisions or clauses are to the corresponding articles, sections, subdivisions or clauses hereof.

**Section 2. Plan of Finance.** As described in the recitals to this resolution, the Port has expended funds for the acquisition of the Corridor. The Port shall issue a series of taxable general obligation bonds (hereinafter identified as the “2011 Taxable Bonds”) to replenish a portion of the funds previously expended by the Port for the acquisition of the Corridor.

The Refunding Candidates are callable in whole or in part prior to their scheduled maturities and may be selected for refunding depending upon market conditions. The final selection of the Refunding Candidates to be designated as Refunded Bonds and to be refunded by the general obligation refunding bonds (hereinafter identified as the “2011 Refunding Bonds”) shall be made by the Designated Port Representative pursuant to the authority granted in Section 13 of this resolution.

Section 3. Authorization of Bonds.

(a) *2011 Taxable Bonds.* The Port shall issue its limited tax general obligation bonds in order to (1) replenish a portion of the Port funds used to pay costs of the Corridor; and (2) pay all or a portion of costs of issuance (the “2011 Taxable Bonds”). The 2011 Taxable Bonds shall be designated as the “Port of Seattle Limited Tax General Obligation Bonds, 2011 (Taxable)” with such additional designations for identification purposes as approved may be by the Designated Port Representative at the time of marketing and sale of the 2011 Taxable Bonds.

(b) *2011 Refunding Bonds.* The Port shall issue its limited tax general obligation refunding bonds in order to (1) refund the Refunded Bonds and (2) pay all or a portion of costs of issuance. The 2011 Refunding Bonds shall be designated as the “Port of Seattle, Limited Tax General Obligation Refunding Bonds, 2011 (AMT)” with such additional designations for identification purposes as may be approved by the Designated Port Representative at the time of marketing and sale of the 2011 Refunding Bonds.

(c) *Bond Terms.* The 2011 Taxable Bonds and the 2011 Refunding Bonds shall be referred to together as the “Bonds”. The Bonds of each series shall be dated as of the date of their delivery, shall be fully registered as to both principal and interest; shall be in the

denomination of \$5,000 or any integral multiple thereof, provided that no Bond shall represent more than one series and maturity within a series; shall be numbered separately and in the manner and with any additional designation as the Registrar deems necessary for purposes of identification and control, and shall bear interest from their date of delivery until the Bonds bearing such interest have been paid or their payment is duly provided for. The Bonds shall be issued in the aggregate principal amount, shall bear interest at the per annum rates, payable semiannually on the dates and in the principal amounts set forth in the Bond Purchase Contract and as approved by the Designated Port Representative pursuant to Section 13 of this resolution; provided that the aggregate principal amount of Bonds issued pursuant to this resolution shall not exceed \$117,000,000.

Section 4.     Redemption.

(a)     *Optional Redemption.* The Bonds of each series may be subject to optional redemption on the dates, and under the terms set forth in the Bond Purchase Contract relating to such series and as approved by the Designated Port Representative pursuant to Section 13.

(b)     *Mandatory Redemption.* The Bonds of each series may be subject to mandatory redemption if and to the extent, if any, set forth in the Bond Purchase Contract relating to such series and as approved by the Designated Port Representative pursuant to Section 13.

(c)     *Selection of Bonds for Redemption.* The manner of selection of Bonds of each series for redemption shall be set forth in the Bond Purchase Contract relating to such series and as approved by the Designated Port Representative pursuant to Section 13.

(d)     *Notice of Redemption.* Written notice of any redemption of Bonds prior to maturity (which notice, in the case of an optional redemption, may be conditional) shall be given by the Registrar on behalf of the Port by first class mail, postage prepaid, not less than 20 days

nor more than 60 days before the date fixed for redemption to the Registered Owners of Bonds that are to be redeemed at their last addresses shown on the Bond Register. This requirement shall be deemed complied with when notice is mailed to the Registered Owners at their last addresses shown on the Bond Register, whether or not such notice is actually received by the Registered Owner.

So long as the Bonds are in book-entry only form, notice of redemption shall be given to beneficial owners of bonds to be redeemed in accordance with the operational arrangements then in effect at DTC, and neither the Port nor the Registrar shall be obligated or responsible to confirm that any notice of redemption is, in fact, provided to beneficial owners.

Each notice of redemption prepared and given by the Registrar to Registered Owners of Bonds shall contain the following information: (1) the date fixed for redemption, (2) the redemption price, (3) if fewer than all outstanding Bonds are to be redeemed, the identification by maturity and series (and, in the case of partial redemption, the principal amounts) of the Bonds to be redeemed, (4) that (unless the notice of redemption is a conditional notice, in which case the notice shall state that such Bond will become due and payable and interest shall cease to accrue on the date fixed for redemption if and to the extent that funds have been provided to the Registrar for the redemption of Bonds) on the date fixed for redemption the redemption price will become due and payable upon each Bond or portion called for redemption, and that interest shall cease to accrue from the date fixed for redemption, (5) that the Bonds are to be surrendered for payment at the principal office of the Registrar, (6) the CUSIP numbers of all Bonds being redeemed, (7) the dated date of the Bonds being redeemed, (8) the rate of interest for each Bond being redeemed, (9) the date of the notice, and (10) any other information deemed necessary by the Registrar to identify the Bonds being redeemed.

Upon the payment of the redemption price of Bonds being redeemed, each check or other transfer of funds issued for such purpose shall bear the CUSIP number identifying, by issue and maturity, the Bonds being redeemed with the proceeds of such check or other transfer.

(e) *Effect of Redemption.* Unless the Port has revoked a notice of optional redemption (or unless the Port provided a conditional notice and the conditions for redemption set forth therein are not satisfied), the Port shall transfer to the Registrar amounts that, in addition to other money, if any, held by the Registrar, will be sufficient to redeem, on the date fixed for redemption, all the Bonds to be redeemed. If and to the extent that funds have been provided to the Registrar for the redemption of Bonds then from and after the date fixed for redemption for such Bond, interest on each such Bond shall cease to accrue.

(f) *Amendment of Notice Provisions.* The foregoing notice provisions of this section, including but not limited to the information to be included in redemption notices and the persons designated to receive notices, may be amended by additions, deletions and changes in order to maintain compliance with duly promulgated regulations and recommendations regarding notices of redemption of municipal securities.

(g) *Purchase.* The Port reserves the right to purchase any of the Bonds offered to the Port at any price deemed reasonable by the Designated Port Representative at any time. To the extent the Port purchases for cancellation or optionally redeems any Bonds that are term Bonds, the Port may reduce the mandatory sinking fund requirements of such Bonds of the same maturity, in like aggregate principal amount for the year specified by the Designated Port Representative.

Section 5. Registration, Exchange and Payments.

(a) *Registrar/Bond Register.* The Port hereby specifies and adopts the system of registration and transfer for the Bonds approved by the Washington State Finance Committee from time to time through the appointment of state fiscal agencies. The Port shall cause a bond register to be maintained by the Registrar. So long as any Bonds remain outstanding, the Registrar shall make all necessary provisions to permit the exchange and registration of transfer of Bonds at its principal corporate trust office. The Registrar may be removed at any time at the option of the Designated Port Representative upon prior notice to the Registrar, DTC, each party entitled to receive notice pursuant to Section 12 and a successor Registrar appointed by the Designated Port Representative. No resignation or removal of the Registrar shall be effective until a successor shall have been appointed and until the successor Registrar shall have accepted the duties of the Registrar hereunder. The Registrar is authorized, on behalf of the Port, to authenticate and deliver Bonds transferred or exchanged in accordance with the provisions of such Bonds and this resolution and to carry out all of the Registrar's powers and duties under this resolution. The Registrar shall be responsible for its representations contained in the Certificate of Authentication on the Bonds.

(b) *Registered Ownership.* The Port and the Registrar, each in its discretion, may deem and treat the Registered Owner of each Bond as the absolute owner thereof for all purposes (except as provided in Section 12 of this resolution), and neither the Port nor the Registrar shall be affected by any notice to the contrary. Payment of any such Bond shall be made only as described in Section 5(h) hereof, but such Bond may be transferred as herein provided. All such payments made as described in Section 5(h) shall be valid and shall satisfy and discharge the liability of the Port upon such Bond to the extent of the amount or amounts so paid.

(c) *DTC Acceptance/Letter of Representations.* To induce DTC to accept the Bonds as eligible for deposit at DTC, the Port has executed and delivered to DTC a Letter of Representations.

Neither the Port nor the Registrar will have any responsibility or obligation to DTC participants or the persons for whom they act as nominees (or any successor depository) with respect to the Bonds in respect of the accuracy of any records maintained by DTC (or any successor depository) or any DTC participant, the payment by DTC (or any successor depository) or any DTC participant of any amount in respect of the principal of or interest on Bonds, any notice which is permitted or required to be given to Registered Owners under this resolution (except such notices as shall be required to be given by the Port to the Registrar or to DTC (or any successor depository), or any consent given or other action taken by DTC (or any successor depository) as the Registered Owner. For so long as any Bonds are held in fully immobilized form hereunder, DTC or its successor depository shall be deemed to be the Registered Owner for all purposes hereunder, and all references herein to the Registered Owners shall mean DTC (or any successor depository) or its nominee and shall not mean the owners of any beneficial interest in such Bonds.

If any Bond shall be duly presented for payment and funds have not been duly provided by the Port on such applicable date, then interest shall continue to accrue thereafter on the unpaid principal thereof at the rate stated on such Bond until such Bond is paid.

(d) *Use of Depository.*

(1) The Bonds shall be registered initially in the name of “Cede & Co.,” as nominee of DTC, with one Bond for each series maturing on each of the maturity dates for the Bonds in a denomination corresponding to the total principal therein designated to mature on such date. Registered ownership of such immobilized Bonds, or any portions thereof, may not thereafter be transferred except (A) to any successor of DTC or its nominee, provided that any such successor shall be qualified under any applicable laws to provide the service proposed to be provided by it; (B) to any substitute depository appointed by the Designated Port Representative pursuant to subsection (2) below or such substitute depository’s successor; or (C) to any person as provided in subsection (4) below.

(2) Upon the resignation of DTC or its successor (or any substitute depository or its successor) from its functions as depository or a determination by the Designated Port Representative to discontinue the system of book-entry transfers through DTC or its successor (or any substitute depository or its successor), the Designated Port Representative may hereafter appoint a substitute depository. Any such substitute depository shall be qualified under any applicable laws to provide the services proposed to be provided by it.

(3) In the case of any transfer pursuant to clause (A) or (B) of subsection (1) above, the Registrar shall, upon receipt of all outstanding Bonds, together with a written request on behalf of the Designated Port Representative, issue a single new Bond for each series and maturity of the Bonds then outstanding, registered in the name of such successor or such substitute depository, or their nominees, as the case may be, all as specified in such written request of the Designated Port Representative.



(4) In the event that (A) DTC or its successor (or substitute depository or its successor) resigns from its functions as depository, and no substitute depository can be obtained, or (B) the Designated Port Representative determines that it is in the best interest of the beneficial owners of the Bonds that such owners be able to obtain such bonds in the form of Bond certificates, the ownership of such Bonds may then be transferred to any persons or entities as herein provided, and shall no longer be held in fully immobilized form. The Designated Port Representative shall deliver a written request to the Registrar, together with a supply of definitive Bonds for each series, to issue Bonds as herein provided in any authorized denomination. Upon receipt by the Registrar of all then outstanding Bonds together with a written request on behalf of the Designated Port Representative to the Registrar, new Bonds shall be issued in the appropriate denominations and registered in the names of such persons or entities as are requested in such written request.

(e) *Registration of Transfer of Ownership or Exchange; Change in Denominations.*

The transfer of any Bond may be registered and Bonds may be exchanged, but no transfer of any such Bond shall be valid unless such Bond is surrendered to the Registrar with the assignment form appearing on such Bond duly executed by the Registered Owner or such Registered Owner's duly authorized agent in a manner satisfactory to the Registrar. Upon such surrender, the Registrar shall cancel the surrendered Bond and shall authenticate and deliver, without charge to the Registered Owner or transferee therefor, a new Bond (or Bonds at the option of the new Registered Owner) of the same series, date, maturity and interest rate and for the same aggregate principal amount in any authorized denomination, naming as Registered Owner the person or persons listed as the assignee on the assignment form appearing on the surrendered Bond, in exchange for such surrendered and canceled Bond. Any Bond may be surrendered to the

Registrar and exchanged, without charge, for an equal aggregate principal amount of Bonds of the same series, date, maturity and interest rate, in any authorized denomination or denominations. The Registrar shall not be obligated to register the transfer or to exchange any Bond during the 15 days preceding the date any such Bond is to be redeemed.

(f) *Registrar's Ownership of Bonds.* The Registrar may become the Registered Owner of any Bond with the same rights it would have if it were not the Registrar, and to the extent permitted by law, may act as depository for and permit any of its officers or directors to act as member of, or in any other capacity with respect to, any committee formed to protect the right of the Registered Owners of Bonds.

(g) *Registration Covenant.* The Port covenants that, until all of the 2011 Refunding Bonds have been surrendered and canceled, it will maintain a system for recording the ownership of the Bonds that complies with the provisions of Section 149 of the Code.

(h) *Place and Medium of Payment.* Both principal of and interest on the Bonds shall be payable in lawful money of the United States of America. Interest on the Bonds shall be calculated on the basis of a 360-day year, consisting of twelve 30-day months. For so long as all Bonds are in fully immobilized form, payments of principal and interest shall be made as provided in accordance with the operational arrangements of DTC referred to in the Letter of Representations.

In the event that the Bonds are no longer in fully immobilized form, interest on the Bonds shall be paid by check mailed to the Registered Owners at the addresses for such Registered Owners appearing on the Bond Register on the 15th day of the month preceding the interest payment date, and principal and premium, if any, of the Bonds shall be payable by check upon presentation and surrender of such Bonds by the Registered Owners at the principal office of the

Registrar; provided, however, that if so requested in writing prior to the opening of business on the 15th day of the month preceding any interest payment date by the Registered Owner of at least \$1,000,000 aggregate principal amount of Bonds, interest will be paid thereafter by wire transfer on the date due to an account with a bank located within the United States.

Section 6.     Bond Fund. A special fund of the Port designated the “Port of Seattle Limited Tax General Obligation Bond Redemption Fund, 2011” (the “Bond Fund”) is hereby authorized to be created in the office of the Treasurer of the Port for the purpose of paying and securing the payment of the Bonds. The Bond Fund may be maintained as a single account or multiple accounts at the option of the Port and may be re-designated in accordance with the accounting procedures then followed by the Port. The Bond Fund shall be held separate and apart from all other funds and accounts of the Port and shall be a trust fund for the owners, from time to time, of the Bonds. The taxes levied for the purpose of paying principal of and interest on the Bonds and other legally available funds to be used to pay the Bonds shall be deposited in the Bond Fund no later than the date such funds are required for the payment of principal of and interest on the Bonds.

The Port hereby further irrevocably covenants that it will budget and make annual levies of ad valorem taxes upon all of the taxable property within the boundaries of the Port subject to taxation within and as a part of the tax levy permitted to be levied by the Port without a vote of the electors, in amounts sufficient (together with other legally available funds) to pay the principal of and interest on the Bonds as the same shall become due. The full faith, credit and resources of the Port are hereby irrevocably pledged for the annual levy and collection of such taxes and for the prompt payment of such principal and interest. The Bonds are general obligations of the Port.

Section 7.     Defeasance.   In the event that money and/or Government Obligations maturing at such time or times and bearing interest to be earned thereon in amounts (together with such money, if necessary) sufficient to redeem and retire part or all of the Bonds authorized hereunder in accordance with their terms, are set aside in a special account of the Port to effect such redemption and retirement, and such moneys and the principal of and interest on such obligations are irrevocably set aside and pledged for such purpose, then no further payments need be made into the Bond Fund of the Port for the payment of the principal of and interest on the Bonds so provided for, and such Bonds shall cease to be entitled to any lien, benefit or security of this resolution except for the right to receive the moneys so set aside and pledged, and such Bonds shall be deemed not to be outstanding hereunder.

The Registrar shall provide notice of defeasance of Bonds to registered owners and to each party entitled to receive notice pursuant to Section 12.

Section 8.     Tax Covenants.

(a)     *The 2011 Refunding Bonds.*   The Port shall comply with the terms of the Federal Tax Certificate.

(b)     *No Designation under Section 265(b) of the Code.*   The Bonds are not “qualified tax-exempt obligations” under Section 265(b)(3) of the Code for banks, thrift institutions and other financial institutions.

Section 9.     Lost, Stolen or Destroyed Bonds.   In case any Bond or Bonds shall be lost, stolen or destroyed, the Registrar may execute and deliver a new Bond or Bonds of like series, date, number and tenor to the Registered Owner thereof upon the owner’s paying the expenses and charges of the Port in connection therewith and upon his/her filing with the Port evidence

satisfactory to the Port that such Bond was actually lost, stolen or destroyed and of his/her ownership thereof, and upon furnishing the Port with indemnity satisfactory to the Port.

Section 10. Form of Bonds and Registration Certificate. The Bonds of each series shall be in substantially the following form:

[DTC Legend]

UNITED STATES OF AMERICA

NO. \_\_\_\_\_

\$ \_\_\_\_\_

STATE OF WASHINGTON

PORT OF SEATTLE

LIMITED TAX GENERAL OBLIGATION [REFUNDING] BOND, 2011[TAXABLE][AMT]

Maturity Date:

CUSIP No. \_\_\_\_\_

Interest Rate:

Registered Owner: CEDE & Co.

Principal Amount:

THE PORT OF SEATTLE, a municipal corporation organized and existing under and by virtue of the laws of the State of Washington (the "Port"), promises to pay to the Registered Owner identified above, or registered assigns, on the Maturity Date identified above the Principal Amount indicated above and to pay interest thereon from the Bond Fund from \_\_\_\_\_, 2011, or the most recent date to which interest has been paid or duly provided for or until payment of this bond at the Interest Rate set forth above, payable on \_\_\_\_\_, and semiannually thereafter on the first days of each \_\_\_\_\_ and \_\_\_\_\_. The principal of, premium, if any, and interest on this bond are payable in lawful money of the United States of America. Principal and interest on this bond shall be paid as provided in the Blanket Issuer Letter of Representations (the "Letter of Representations") from the Port to The Depository Trust Company ("DTC"). The Port has specified and adopted the registration system for the bonds of this issue specified by the State Finance Committee, and the fiscal agency of the State will act as the registrar, authenticating agent and paying agent (the "Registrar"). Capitalized terms used in this bond which are not specifically defined have the meanings given such terms in the Resolution No. 3648 of the Port Commission (the "Bond Resolution").

This bond is one of a series of bonds of the Port in the aggregate principal amount of \$ \_\_\_\_\_, of like date, tenor and effect, except as to number, amount, rate of interest and

date of maturity and is issued pursuant to the Bond Resolution to [fund Port operations][ refund certain outstanding Port obligations]. [Simultaneously herewith, the Port is issuing one other series of general obligation bonds: its Limited Tax General Obligation [Refunding] Bonds [Taxable][AMT] in the principal amount of \$\_\_\_\_\_].

The bonds of this issue maturing on and prior to \_\_\_\_\_ are not subject to redemption in advance of their scheduled maturity. The bonds of this issue maturing on and after \_\_\_\_\_ are subject to redemption at the option of the Port on and after \_\_\_\_\_ [in whole or in part on any date, and if in part, with maturities to be selected by the Port at the price of par plus accrued interest to the date fixed for redemption][as described in the Bond Purchase Contract for the bonds of this issue/\_\_\_\_\_].

[Unless previously redeemed pursuant to the foregoing optional redemption provisions, the bonds of this issue maturing in the year \_\_\_\_ are subject to mandatory redemption on \_\_\_\_\_ of the following years at a price of par plus accrued interest to the date fixed for redemption:

Year	Amount
	\$

\*

\* Final maturity

[The interest on this bond is not exempt from federal income taxation.][The bonds of this issue are private activity bonds and are not “qualified tax exempt obligations” eligible for investment by financial institutions within the meaning of Section 265(b) of the Internal Revenue Code of 1986, as amended.]

The Port hereby covenants and agrees with the owner and holder of this bond that it will keep and perform all the covenants of this bond and the Bond Resolution.

The Port has irrevocably covenanted in the Bond Resolution that it will budget and make annual levies of ad valorem taxes upon all of the taxable property within the boundaries of the Port subject to taxation within and as a part of the tax levy permitted to be levied by the Port without a vote of the electors, in amounts sufficient (together with other legally available funds) to pay the principal of and interest on the bonds of this issue as the same shall become due. The full faith, credit and resources of the Port are irrevocably pledged for the annual levy and collection of such taxes and for the prompt payment of such principal and interest. The bonds of this issue are general obligations of the Port. The pledge of tax levies may be discharged prior to maturity of the bonds of this by making provision for the payment thereof on the terms and conditions set forth in the Bond Resolution.

This bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Bond Resolution until the Certificate of Authentication hereon shall have been manually signed by or on behalf of the Registrar.

It is hereby certified and declared that this bond and the bonds of this issue are issued pursuant to and in strict compliance with the Constitution and laws of the State of Washington and resolutions of the Port and that all acts, conditions and things required to be done precedent to and in the issuance of this bond have happened, been done and performed.

IN WITNESS WHEREOF, the Port of Seattle has caused this bond to be executed by the manual or facsimile signatures of the President and Secretary of the Port Commission, and the corporate seal of the Port to be impressed, imprinted or otherwise reproduced hereon as of the \_\_\_\_ day of \_\_\_\_\_, 2011.

PORT OF SEATTLE

By \_\_\_\_\_/s/\_\_\_\_\_  
President, Port Commission

[SEAL]

ATTEST:

\_\_\_\_\_/s/\_\_\_\_\_  
Secretary, Port Commission

The Certificate of Authentication printed on the Bonds shall be substantially in the following form:

CERTIFICATE OF AUTHENTICATION

Date of Authentication: \_\_\_\_\_

This bond is one of the bonds described in the within mentioned Bond Resolution and is one of the Limited Tax General Obligation [Refunding ]Bonds, 2011[Taxable][AMT] of the Port of Seattle, dated \_\_\_\_\_, 2011.

WASHINGTON STATE FISCAL AGENCY,  
Registrar

By \_\_\_\_\_  
Authorized Signer

Section 11. Execution. The Bonds shall be executed on behalf of the Port with the manual or facsimile signature of the President of its Commission, shall be attested by the manual or facsimile signature of the Secretary thereof and shall have the seal of the Port impressed, imprinted or otherwise reproduced thereon.

Only such Bonds as shall bear thereon a Certificate of Authentication in the form hereinbefore recited, manually executed by the Registrar, shall be valid or obligatory for any purpose or entitled to the benefits of this resolution. Such Certificate of Authentication shall be conclusive evidence that the Bonds so authenticated have been duly executed, authenticated and delivered hereunder and are entitled to the benefits of this resolution.

In case either of the officers of the Port who shall have executed the Bonds shall cease to be such officer or officers of the Port before the Bonds so signed shall have been authenticated or delivered by the Registrar, or issued by the Port, such Bonds may nevertheless be authenticated, delivered and issued and upon such authentication, delivery and issuance, shall be as binding



upon the Port as though those who signed the same had continued to be such officers of the Port. Any Bond may also be signed and attested on behalf of the Port by such persons as at the actual date of execution of such Bond shall be the proper officers of the Port although at the original date of such Bond any such person shall not have been such officer.

Section 12. Ongoing Disclosure. The Designated Port Representative is authorized to, in his or her discretion, execute and deliver an agreement for ongoing disclosure providing for an undertaking by the Port to assist the Underwriters in complying with Rule 15c2-12 promulgated by the SEC.

Section 13. Sale of Bonds.

(a) *Designation of Refunded Bonds.* As outlined in Section 2 of this resolution, the Refunding Candidates may be called for redemption prior to their scheduled maturities. All or some of the Refunding Candidates may be refunded with the proceeds of the 2011 Refunding Bonds authorized by this resolution. The Designated Port Representative may select some or all of the Refunding Candidates and designate those Refunding Candidates as the “Refunded Bonds” in the Bond Purchase Contract for the 2011 Refunding Bonds if and to the extent that the net present value aggregate savings with respect to Refunded Bonds to be realized as a result of the refunding of the Refunded Bonds, after payment of all costs of issuance of the allocable Bonds), is at least equal to the Savings Target.

(b) *Bond Sale.* The Bonds shall be sold at negotiated sale to the Underwriters pursuant to the terms of one or more Bond Purchase Contracts. The Designated Port Representative is hereby authorized to negotiate terms for the purchase of the Bonds and to execute the Bond Purchase Contract for each series, with such terms (including the designation of the Refunded Bonds) as are approved by the Designated Port Representative pursuant to this

section and consistent with this resolution. The Commission has been advised by the Port's financial advisor that market conditions are fluctuating and, as a result, the most favorable market conditions may occur on a day other than a regular meeting date of the Commission. The Commission has determined that it would be in the best interest of the Port to delegate to the Designated Port Representative for a limited time the authority with respect to each series to approve the series designations, the date of sale, final interest rates, maturity dates, aggregate principal amount, principal amounts and prices of each maturity, redemption rights, and other terms and conditions of the Bonds. The Designated Port Representative is hereby authorized to approve with respect to each series, the series designations, the date of sale, the final interest rates, maturity dates, aggregate principal amount, principal amounts of each maturity and redemption rights for the Bonds in the manner provided hereafter (A) so long as the aggregate principal amount of the Bonds does not exceed \$117,000,000, (B) (with respect to the 2011 Taxable Bonds) so long as the true interest cost for the 2011 Taxable Bonds does not exceed 4.5% per annum, and (C) (with respect to the 2011 Refunding Bonds) so long as the Savings Target is met (as described in subsection (a) of this Section 13).

In determining the series designations, date or dates of sale, the final interest rates, maturity dates, aggregate principal amount, principal maturities, redemption rights of the Bonds, the Designated Port Representative, in consultation with Port staff and the Port's financial advisor, shall take into account those factors that, in his judgment, will result in terms favorable to the Port considering financial market conditions, interest rates and terms for obligations comparable in terms, tenor and quality to the Bonds of each series. Subject to the terms and conditions set forth in this section, the Designated Port Representative is hereby authorized to execute the final form of one or more Bond Purchase Contracts, upon the Designated Port

Representative's approval of the series designation, date of sale, the final interest rates, maturity dates, aggregate principal amount, principal maturities and redemption rights set forth therein. Following the execution of a Bond Purchase Contract, the Designated Port Representative shall provide a report to the Commission, describing the final terms of the Bonds approved pursuant to the authority delegated in this section. The authority granted to the Designated Port Representative and the Designated Port Representative by this section shall expire six months from the date of adoption of this resolution. If a Bond Purchase Contract for the Bonds of a series has not been executed within such six month period, the authorization for the issuance of the Bonds of that series shall be rescinded, and the Bonds of that series shall not be issued nor their sale approved unless such Bonds shall have been re-authorized by resolution of the Commission. The resolution reauthorizing the issuance and sale of the Bonds may be in the form of a new resolution repealing this resolution in whole or in part (only with respect to the Bonds not issued) or may be in the form of an amendatory resolution approving a bond purchase contract or establishing terms and conditions for the authority delegated under this section.

Upon the adoption of this resolution, the proper officials of the Port including the Designated Port Representative, are authorized and directed to undertake all other actions necessary for the prompt execution and delivery of the Bonds to the Underwriters thereof and further to execute all closing certificates and documents required to effect the closing and delivery of the Bonds in accordance with the terms of the Bond Purchase Contract.

The Designated Port Representative is authorized to deem final and to approve for purposes of the Rule, on behalf of the Port, any Preliminary Official Statement and Official Statement (as such terms are defined in the Bond Purchase Contract) and any supplement thereto

relating to the issuance and sale of the Bonds and the distribution of the Bonds pursuant thereto with such changes, if any, as may be deemed by him/her to be appropriate.

The Designated Port Representative and other Port officials, agents and representatives are hereby authorized and directed to do everything necessary for the prompt issuance, execution and delivery of the Bonds to the Underwriters and for the proper application and use of the proceeds of sale of the Bonds. In furtherance of the foregoing, the Designated Port Representative is authorized to approve and enter into agreements for the payment of costs of issuance, including Underwriters' discount, the fees and expenses specified in the Bond Purchase Contract, including fees and expenses of Underwriters and other retained services, including bond counsel, rating agencies, fiscal agency, escrow agent, financial advisory services, escrow structuring services and other expenses customarily incurred in connection with issuance and sale of bonds.

Section 14. Application of Bond Proceeds.

(a) *Application of Bond Proceeds.* The net proceeds of the 2011 Taxable Bonds (exclusive of any amounts that may be designated by the Designated Port Representative in a closing certificate to be allocated to pay costs of issuance, shall be remitted to the Port to be used for Port purposes. The net proceeds of the 2011 Refunding Bonds (exclusive of any amounts that may be designated by the Designated Port Representative in a closing certificate to be allocated to pay costs of issuance, together with other available funds of the Port in the amount specified by the Designated Port Representative, shall be used at the direction of the Designated Port Representative to pay and redeem the Refunded Bonds or to effect a defeasance of the Refunded Bonds.

(b) *Defeasance of Refunded Bonds.* If the Port determines to defease the Refunded Bonds, the net proceeds of the 2011 Refunding Bonds shall be deposited with an Escrow Agent and shall be utilized to purchase the Government Obligations specified by the Designated Port Representative (which obligations so purchased, are herein called “Acquired Obligations”) and to maintain such necessary beginning cash balance to defease the Refunded Bonds and to discharge the other obligations of the Port relating thereto under the 2000 Bond Resolution authorizing their issuance, by providing for the payment of the interest on the Refunded Bonds to the date fixed for redemption and the redemption price (the principal amount) on the date fixed for redemption of the Refunded Bonds. When the final transfer has been made for the payment of such redemption price and interest on the Refunded Bonds, any balance then remaining with the Escrow Agent shall be transferred to the account designated by the Port and used for the purposes specified by the Designated Port Representative.

(c) *Acquired Obligations.* The Acquired Obligations, if any, shall be payable in such amounts and at such times that, together with any necessary beginning cash balance, will be sufficient to provide for the payment of:

(1) the interest on the Refunded Bonds as such becomes due on and before the date fixed for redemption of the Refunded Bonds; and

(2) the price of redemption of the Refunded Bonds on the date fixed for redemption of the Refunded Bonds.

(d) *Authorizing Appointment of Escrow Agent.* The Commission hereby authorizes and directs the Designated Port Representative (if the Designated Port Representative determines that an escrow would be necessary or desirable to effect the defeasance of the Refunded Bonds)

to select a financial institution to act as the escrow agent for the Refunded Bonds (the “Escrow Agent”).

Section 15. Redemption of Refunded Bonds. Conditioned upon the issuance, closing and delivery of the 2011 Refunding Bonds, the Commission hereby calls the Refunded Bonds for redemption on the redemption date specified by the Designated Port Representative in accordance with the provisions of the 2000 Bond Resolution authorizing the issuance, redemption and retirement of the Refunded Bonds, respectively, prior to their stated maturities.

Said call for redemption of the Refunded Bonds shall be irrevocable after the closing and delivery of the 2011 Refunding Bonds.

The Designated Port Representative may cause to be disseminated a conditional notice of redemption prior to the closing and delivery of the 2011 Refunding Bonds. If so appointed, the Escrow Agent shall be authorized and directed in the Escrow Agreement to provide for the giving of irrevocable notice of the redemption of the Refunded Bonds in accordance with the terms of 2000 Bond Resolution authorizing the issuance of the Refunded Bonds and as described in the Escrow Agreement. The Treasurer is authorized and directed to provide whatever assistance is necessary to accomplish such redemption and the giving of notice therefor. The costs of mailing of such notice shall be an expense of the Port.

The Port or the Escrow Agent on behalf of the Port shall be authorized and directed to pay to the fiscal agency or agencies of the State of Washington, sums sufficient to pay, when due, the payments specified in Section 14 (c) of this resolution. All such sums shall be paid from the moneys and the Acquired Obligations pursuant to the previous section of this resolution, and the income therefrom and proceeds thereof.

If an Escrow Agent is appointed, the Port will cause all necessary and proper fees, compensation and expenses of the Escrow Agent for the Refunded Bonds to be paid when due. If an Escrow Agent is appointed, the Designated Port Representative is authorized and directed to execute and deliver the Escrow Agreement to the Escrow Agent when the provisions thereof have been fixed and determined for closing and delivery of the 2011 Refunding Bonds. The Escrow Agreement, if any, shall be substantially in the form of Exhibit A attached to this resolution and by this reference hereby made a part of this resolution.

Section 16. Effective Date. This resolution shall be effective immediately upon its adoption.

ADOPTED by the Commission of the Port of Seattle at a meeting thereof, held this \_\_\_\_ day of February, 2011, and duly authenticated in open session by the signatures of the Commissioners present and voting in favor thereof.

PORT OF SEATTLE

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Commissioners

CERTIFICATE

I, the undersigned, Secretary of the Port Commission (the "Commission") of the Port of Seattle (the "Port"), DO HEREBY CERTIFY:

1. That the attached resolution numbered 3648 (the "Resolution") is a true and correct copy of a resolution of the Port, as finally adopted at a meeting of the Commission held on the \_\_\_ day of February, 2011, and duly recorded in my office.

2. That said meeting was duly convened and held in all respects in accordance with law, and to the extent required by law, due and proper notice of such meeting was given; that a quorum of the Commission was present throughout the meeting and a legally sufficient number of members of the Commission voted in the proper manner for the adoption of said Resolution; that all other requirements and proceedings incident to the proper adoption of said Resolution have been duly fulfilled, carried out and otherwise observed, and that I am authorized to execute this certificate.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_ day of February, 2011.

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Secretary



**EXHIBIT A**  
**ESCROW DEPOSIT AGREEMENT**

**PORT OF SEATTLE**  
**LIMITED TAX GENERAL OBLIGATION REFUNDING BONDS, 2011 (AMT)**

**THIS ESCROW AGREEMENT**, dated as of \_\_\_\_\_, 2011 (herein, together with any amendments or supplements hereto, called the "Agreement") is entered into by and between THE PORT OF SEATTLE (herein called the "Port") and \_\_\_\_\_, as escrow agent (herein, together with any successor in such capacity, called the "Escrow Agent"). The notice addresses of the Port and the Escrow Agent are shown on Annex A attached hereto and made a part hereof.

**WITNESSETH:**

**WHEREAS**, the Port heretofore has issued and there presently remain outstanding the obligations described in Annex B attached hereto (the "Refunded Bonds"); and

**WHEREAS**, pursuant to Resolution No. \_\_\_\_\_ adopted on February \_\_\_\_, 2011 (the "Bond Resolution"), the Port has determined to issue its Limited Tax General Obligation Refunding Bonds, 2011B (the "Bonds"); and

**WHEREAS**; a portion of the proceeds of the Bonds are being used for the purpose of providing funds to pay the costs of refunding the Refunded Bonds; and

**WHEREAS**, the Escrow Agent has reviewed the Bond Resolution and this Agreement, and is willing to serve as Escrow Agent hereunder; and

**WHEREAS**, pursuant to the Bond Resolution, the Refunded Bonds have been designated for redemption prior to their scheduled maturity dates and, after provision is made for such redemption, the Refunded Bonds will come due in such years, bear interest at such rates, and be payable at such times and in such amounts as are set forth in Annex C attached hereto and made a part hereof; and

**WHEREAS**, when Escrowed Securities have been deposited with the Escrow Agent for the payment of all principal and interest of the Refunded Bonds when due, then the Refunded Bonds shall no longer be regarded as outstanding except for the purpose of receiving payment from the funds provided for such purpose; and

**WHEREAS**, to facilitate the receipt and transfer of proceeds of the Escrowed Securities, particularly those in book entry form, the Port desires to establish the Escrow Fund at the principal corporate trust office of the Escrow Agent; and

**WHEREAS**, the Escrow Agent is a party to this Agreement to acknowledge its acceptance of the terms and provisions hereof;

**NOW, THEREFORE,** in consideration of the mutual undertakings, promises and agreements herein contained, the sufficiency of which hereby are acknowledged, and to secure the full and timely payment of principal of and the interest on the Refunded Bonds, the Port and the Escrow Agent mutually undertake, promise and agree for themselves and their respective representatives and successors, as follows:

## **Article 1. Definitions**

### **Section 1.1. Definitions.**

Unless the context clearly indicates otherwise, the following terms shall have the meanings assigned to them below when they are used in this Agreement:

**Treasurer** means the Chief Financial Officer of the Port, or any other public officer as may hereafter be designated pursuant to law to have the custody of Port funds.

**Escrow Fund** means the fund created by this Agreement to be established, held and administered by the Escrow Agent pursuant to the provisions of this Agreement.

**Escrowed Securities** means the noncallable government obligations described in Annex D attached to this Agreement, or cash or other noncallable obligations substituted therefor pursuant to Section 4.2 of this Agreement. Escrowed Securities shall consist solely of direct, noncallable (a) United States Treasury Obligations, (b) United States Treasury Obligations - State and Local Government Series, (c) non-prepayable obligations which are unconditionally guaranteed as to full and timely payment of principal and interest by the United States of America or (d) REFCORP debt obligations unconditionally guaranteed by the United States.

**Paying Agent** means the fiscal agency of the State of Washington, as the paying agent for the Refunded Bonds.

### **Section 1.2. Other Definitions.**

The terms “Agreement,” “Port,” “Escrow Agent,” “Bond Resolution,” “Refunded Bonds” and “Bonds” when they are used in this Agreement, shall have the meanings assigned to them in the preamble to this Agreement.

### **Section 1.3. Interpretations.**

The titles and headings of the articles and sections of this Agreement have been inserted for convenience and reference only and are not to be considered a part hereof and shall not in any way modify or restrict the terms hereof. This Agreement and all of the terms and provisions hereof shall be liberally construed to effectuate the purposes set forth herein and to achieve the intended purpose of providing for the refunding of the Refunded Bonds in accordance with applicable law.

## **Article 2. Deposit of Funds and Escrowed Securities**

### **Section 2.1. Deposits in the Escrow Fund.**

Concurrently with the sale and delivery of the Bonds the Port shall deposit, or cause to be deposited, with the Escrow Agent, for deposit in the Escrow Fund, the funds sufficient to purchase the Escrowed Securities and pay costs of issuance described in Annex D attached hereto, and the Escrow Agent shall, upon the receipt thereof, acknowledge such receipt to the Port in writing.

## **Article 3. Creation and Operation of Escrow Fund**

### **Section 3.1. Escrow Fund.**

The Escrow Agent has created on its books a special trust fund and irrevocable escrow to be known as the Refunding Account (the "Escrow Fund"). The Escrow Agent hereby agrees that upon receipt thereof it will deposit to the credit of the Escrow Fund the funds and the Escrowed Securities described in Annex D attached hereto. Such deposit, all proceeds therefrom, and all cash balances from time to time on deposit therein (a) shall be the property of the Escrow Fund, (b) shall be applied only in strict conformity with the terms and conditions of this Agreement, and (c) are hereby irrevocably pledged to the payment of the principal of and interest on the Refunded Bonds, which payment shall be made by timely transfers of such amounts at such times as are provided for in Section 3.2 hereof. When the final transfers have been made for the payment of such principal of and interest on the Refunded Bonds, any balance then remaining in the Escrow Fund shall be transferred to the Port, and the Escrow Agent shall thereupon be discharged from any further duties hereunder.

### **Section 3.2. Payment of Principal and Interest.**

The Escrow Agent is hereby irrevocably instructed to transfer to the Paying Agent from the cash balances from time to time on deposit in the Escrow Fund, the amounts required to pay the principal of the Refunded Bonds on their redemption date and interest thereon to such redemption date in the amounts and at the times shown in Annex C attached hereto.

### **Section 3.3. Sufficiency of Escrow Fund.**

The Port represents that, based upon the information provided by the Underwriters, the successive receipts of the principal of and interest on the Escrowed Securities will assure that the cash balance on deposit from time to time in the Escrow Fund will be at all times sufficient to provide moneys for transfer to the Paying Agent at the times and in the amounts required to pay the interest on the Refunded Bonds as such interest comes due and the principal of the Refunded Bonds as the Refunded Bonds are paid on an optional redemption date prior to maturity, all as more fully set forth in Annex E attached hereto. If, for any reason, at any time, the cash balances on deposit or scheduled to be on deposit in the Escrow Fund shall be insufficient to transfer the amounts required by the Paying Agent to make the payments set forth in Section 3.2. hereof, the

Port shall timely deposit in the Escrow Fund, from any funds that are lawfully available therefor, additional funds in the amounts required to make such payments. Notice of any such insufficiency shall be given promptly as hereinafter provided, but the Escrow Agent shall not in any manner be responsible for any insufficiency of funds in the Escrow Fund or the Port's failure to make additional deposits thereto.

#### **Section 3.4. Trust Fund.**

The Escrow Agent shall hold at all times the Escrow Fund, the Escrowed Securities and all other assets of the Escrow Fund, wholly segregated from all other funds and securities on deposit with the Escrow Agent; it shall never allow the Escrowed Securities or any other assets of the Escrow Fund to be commingled with any other funds or securities of the Escrow Agent; and it shall hold and dispose of the assets of the Escrow Fund only as set forth herein. The Escrowed Securities and other assets of the Escrow Fund shall always be maintained by the Escrow Agent as trust funds for the benefit of the owners of the Refunded Bonds; and a special account thereof shall at all times be maintained on the books of the Escrow Agent. The amounts received by the Escrow Agent under this Agreement shall not be considered as a banking deposit by the Port, and the Escrow Agent shall have no right to title with respect thereto except as a trustee and Escrow Agent under the terms of this Agreement.

### **Article 4. Limitation on Investments**

#### **Section 4.1. Investments.**

Except for the initial investment in the Escrowed Securities, the Escrow Agent shall not have any power or duty to invest or reinvest any money held hereunder, or to make substitutions of the Escrowed Securities, or to sell, transfer, or otherwise dispose of the Escrowed Securities.

### **Article 5. Application of Cash Balances**

#### **Section 5.1. In General.**

Except as provided in Sections 2.1 and 3.2 hereof, no withdrawals, transfers, or reinvestment shall be made of cash balances in the Escrow Fund.

### **Article 6. Redemption of Refunded Bonds**

#### **Section 6.1. Call for Redemption.**

The Port hereby irrevocably calls the Refunded Bonds for redemption on their earliest redemption date, as shown on Appendix A attached hereto.

## **Section 6.2. Notice of Redemption.**

The Escrow Agent agrees to give a notice of defeasance and a notice of the redemption of the Refunded Bonds to the Paying Agent for dissemination in accordance with the terms of Resolution No. 3393 of the Commission and in substantially the form attached hereto as Appendix A attached hereto and as described on said Appendix A to the Paying Agent for distribution as described therein. The Escrow Agent hereby certifies that provision satisfactory and acceptable to the Escrow Agent has been made for the giving of notice of redemption of the Refunded Bonds.

## **Article 7. Records and Reports**

### **Section 7.1. Records.**

The Escrow Agent will keep books of record and account in which complete and accurate entries shall be made of all transactions relating to the receipts, disbursements, allocations and application of the money and Escrowed Securities deposited to the Escrow Fund and all proceeds thereof, and such books shall be available for inspection during business hours and after reasonable notice.

### **Section 7.2. Reports.**

The Escrow Agent annually shall prepare and send to the Port a written report summarizing all transactions relating to the Escrow Fund promptly following the final redemption of the Refunded Bonds.

## **Article 8. Concerning the Paying Agent and Escrow Agent**

### **Section 8.1. Representations.**

The Escrow Agent hereby represents that it has all necessary power and authority to enter into this Agreement and undertake the obligations and responsibilities imposed upon it herein, and that it will carry out all of its obligations hereunder.

### **Section 8.2. Limitation on Liability.**

The liability of the Escrow Agent to transfer funds for the payment of the principal of and interest on the Refunded Bonds shall be limited to the proceeds of the Escrowed Securities and the cash balances from time to time on deposit in the Escrow Fund. Notwithstanding any provision contained herein to the contrary, the Escrow Agent shall have no liability whatsoever for the insufficiency of funds from time to time in the Escrow Fund or any failure of the obligors of the Escrowed Securities to make timely payment thereon, except for the obligation to notify the Port promptly of any such occurrence.

The recitals herein and in the proceedings authorizing the Bonds shall be taken as the statements of the Port and shall not be considered as made by, or imposing any obligation or liability upon, the Escrow Agent.

The Escrow Agent is not a party to the proceedings authorizing the Bonds or the Refunded Bonds and is not responsible for and is not bound by any of the provisions thereof (except to the extent that the Escrow Agent may be a place of payment and paying agent and/or a paying agent/registrar therefor). In its capacity as Escrow Agent, it is agreed that the Escrow Agent need look only to the terms and provisions of this Agreement.

The Escrow agent makes no representations as to the value, conditions or sufficiency of the Escrow Fund, or any part thereof, or as to the title of the Port thereto, or as to the security afforded thereby or hereby, and the Escrow Agent shall not incur any liability or responsibility in respect to any of such matters.

It is the intention of the parties hereto that the Escrow Agent shall never be required to use or advance its own funds or otherwise incur personal financial liability in the performance of any of its duties or the exercise of any of its rights and powers hereunder.

The Escrow Agent shall not be liable for any action taken or neglected to be taken by it in good faith in any exercise of reasonable care and believed by it to be within the discretion or power conferred upon it by this Agreement, nor shall the Escrow Agent be responsible for the consequences of any error of judgment; and the Escrow Agent shall not be answerable except for its own action, neglect or default, nor for any loss unless the same shall have been through its negligence or want of good faith.

Unless it is specifically otherwise provided herein, the Escrow Agent has no duty to determine or inquire into the happening or occurrence of any event or contingency or the performance or failure of performance of the Port with respect to arrangements or contracts with others, with the Escrow Agent's sole duty hereunder being to safeguard the Escrow Fund, to dispose of and deliver the same in accordance with this Agreement. If, however, the Escrow Agent is called upon by the terms of this Agreement to determine the occurrence of any event or contingency, the Escrow Agent shall be obligated, in making such determination, only to exercise reasonable care and diligence, and in event of error in making such determination the Escrow Agent shall be liable only for its own misconduct or its negligence. In determining the occurrence of any such event or contingency the Escrow Agent may request from the Port or any other person such reasonable additional evidence as the Escrow Agent in its discretion may deem necessary to determine any fact relating to the occurrence of such event or contingency, and in this connection may make inquiries of, and consult with, among others, the Port at any time.

### **Section 8.3. Compensation.**

The Port shall pay to the Escrow Agent fees for performing the services hereunder and for the expenses incurred or to be incurred by the Escrow Agent in the administration of this Agreement pursuant to the terms of the Fee Schedule attached hereto as Appendix C. The Escrow Agent hereby agrees that in no event shall it ever assert any claim or lien against the

Escrow Fund for any fees for its services, whether regular or extraordinary, as Escrow Agent, or in any other capacity, or for reimbursement for any of its expenses as Escrow Agent or in any other capacity.

#### **Section 8.4. Successor Escrow Agents.**

If at any time the Escrow Agent or its legal successor or successors should become unable, through operation or law or otherwise, to act as escrow agent hereunder, or if its property and affairs shall be taken under the control of any state or federal court or administrative body because of insolvency or bankruptcy or for any other reason, a vacancy shall forthwith exist in the office of Escrow Agent hereunder. In such event the Port, by appropriate action, promptly shall appoint an Escrow Agent to fill such vacancy. If no successor Escrow Agent shall have been appointed by the Port within 60 days, a successor may be appointed by the owners of a majority in principal amount of the Refunded Bonds then outstanding by an instrument or instruments in writing filed with the Port, signed by such owners or by their duly authorized attorneys-in-fact. If, in a proper case, no appointment of a successor Escrow Agent shall be made pursuant to the foregoing provisions of this section within three months after a vacancy shall have occurred, the owner of any Refunded Bond may apply to any court of competent jurisdiction to appoint a successor Escrow Agent. Such court may thereupon, after such notice, if any, as it may deem proper, prescribe and appoint a successor Escrow Agent.

Any successor Escrow Agent shall be a corporation organized and doing business under the laws of the United States or the State of Washington, authorized under such laws to exercise corporate trust powers, having its principal office and place of business in the State of Washington, having a combined capital and surplus of at least \$100,000,000 and subject to the supervision or examination by federal or state authority.

Any successor Escrow Agent shall execute, acknowledge and deliver to the Port and the Escrow Agent an instrument accepting such appointment hereunder, and the Escrow Agent shall execute and deliver an instrument transferring to such successor Escrow Agent, subject to the terms of this Agreement, all the rights, powers and trusts of the Escrow Agent hereunder. Upon the request of any such successor Escrow Agent, the Port shall execute any and all instruments in writing for more fully and certainly vesting in and confirming to such successor Escrow Agent all such rights, powers and duties.

The obligations assumed by the Escrow Agent pursuant to this Agreement may be transferred by the Escrow Agent to a successor Escrow Agent if (a) the requirements of this Section 8.4 are satisfied; (b) the successor Escrow Agent has assumed all the obligations of the Escrow Agent under this Agreement; and (c) all of the Escrowed Securities and money held by the Escrow Agent pursuant to this Agreement have been duly transferred to such successor Escrow Agent.

## **Article 9. Miscellaneous**

### **Section 9.1. Notice.**

Any notice, authorization, request, or demand required or permitted to be given hereunder shall be in writing and shall be deemed to have been duly given when mailed by registered or certified mail, postage prepaid addressed to the Port, the Port Treasurer or the Escrow Agent at the address shown on Annex A attached hereto. The United States Post Office registered or certified mail receipt showing delivery of the aforesaid shall be conclusive evidence of the date and fact of delivery. Any party hereto may change the address to which notices are to be delivered by giving to the other parties not less than ten days prior notice thereof.

### **Section 9.2. Termination of Responsibilities.**

Upon the taking of all the actions as described herein by the Escrow Agent, the Escrow Agent shall have no further obligations or responsibilities hereunder to the Port, the owners of the Refunded Bonds or to any other person or persons in connection with this Agreement.

### **Section 9.3. Binding Agreement.**

This Agreement shall be binding upon the Port and the Escrow Agent and their respective successors and legal representatives, and shall inure solely to the benefit of the owners of the Refunded Bonds, the Port, the Escrow Agent and their respective successors and legal representatives.

### **Section 9.4. Severability.**

In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions of this Agreement, but this Agreement shall be construed as if such invalid or illegal or unenforceable provision had never been contained herein.

### **Section 9.5. Washington Law Governs.**

This Agreement shall be governed exclusively by the provisions hereof and by the applicable laws of the State of Washington.

### **Section 9.6. Time of the Essence.**

Time shall be of the essence in the performance of obligations from time to time imposed upon the Escrow Agent by this Agreement.



**EXECUTED** as of the date first written above.

**PORT OF SEATTLE**

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Treasurer

**[TBD]**

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- Annex A - Addresses of the Port and the Escrow Agent
- Annex B - Description of the Refunded Bonds
- Annex C - Schedule of Debt Service on Refunded Bonds
- Annex D - Description of Beginning Cash Deposit (if any) and Escrowed Securities
- Annex E - Escrow Fund Cash Flow
- Appendix A - Notice of Redemption for the 2000B Bonds
- Appendix C - Fee Schedule

**ANNEX A**  
**Addresses of the Port and Escrow Agent**

**Port:** Port of Seattle  
2711 Alaskan Way  
Pier 69  
Seattle, WA 98121  
Attention: Chief Financial Officer

**Escrow Agent:** TBD

**-ANNEX B**  
**Description of the Refunded Bonds**

**Port of Seattle**  
**Limited Tax General Obligation Bonds, 2000B**

Maturity Year (December 1)	Principal Amounts	Interest Rates
2011	\$ 3,495,000	6.00%
2012	3,705,000	6.00
2013	3,925,000	6.00
2014	4,165,000	6.00
2015	4,410,000	6.00
2016	4,675,000	6.00
2017	4,955,000	5.70
2018	5,240,000	5.75
2019	5,540,000	5.80
2020	5,860,000	5.85
2021	6,205,000	5.90
2025	28,640,000	5.75

**ANNEX C**  
**Schedule of Debt Service on Refunded Bonds**

Date	Interest	Principal/ Redemption Price	Total
	\$	--	\$
		--	
		--	
		--	
		\$	
Total	\$	\$	\$

**ANNEX D**  
**Escrow Deposit**

**I. Cash \$**

**II. Other Obligations**

Description	Maturity Date	Principal Amount	Interest Rate	Total Cost
		\$	%	\$
		\$		\$
TOTAL		\$ <u>          </u>		\$ <u>          </u>

**III. Costs of Issuance**

Escrow Agent Fee ()	\$
Bond Counsel Fee (K&L Gates)	
Financial Advisor ()	
Rating Agency	
POS/OS Printing & Mailing	
Contingency	_____

**TOTAL:** \$ \_\_\_\_\_

**ANNEX E**  
**Escrow Fund Cash Flow**

<u>Date</u>	<u>Escrow Requirement</u>	<u>Net Escrow Receipts</u>	<u>Disbursements</u>	<u>Cash Balance</u>
	\$	\$	\$	
	\$ _____	\$ _____	\$ _____	
	\$ _____	\$ _____	\$ _____	

**APPENDIX A-1**  
**Notice of Redemption\***  
**Port of Seattle**  
**Limited Tax General Obligation Bonds, Series 2000B**

NOTICE IS HEREBY GIVEN that Port of Seattle has called for redemption on \_\_\_\_\_, 2011, its then outstanding Limited Tax General Obligation Bonds, Series 2000B (the "Bonds").

The Bonds will be redeemed at a price of one hundred percent (100%) of their principal amount, plus interest accrued to \_\_\_\_\_, 2011. The redemption price of the Bonds is payable on presentation and surrender of the Bonds at the office of:

The Bank of New York Mellon Worldwide Securities Processing 2001 Bryan Street, 9th Floor Dallas, TX 75201	-or-	Wells Fargo Bank, National Association Corporate Trust Department 14th Floor - M/S 257 999 Third Avenue Seattle, WA 98104
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Interest on all Bonds or portions thereof which are redeemed shall cease to accrue on \_\_\_\_\_, 2011. .

The following Bonds are being redeemed:

Maturity Dates (December 1)	Principal Amounts	Interest Rates	Original CUSIP Nos.
2011	\$ 3,495,000	6.00%	735371FY7
2012	3,705,000	6.00	735371FZ4
2013	3,925,000	6.00	735371GA8
2014	4,165,000	6.00	735371GB6
2015	4,410,000	6.00	735371GC4
2016	4,675,000	6.00	735371GD2
2017	4,955,000	5.70	735371GE0
2018	5,240,000	5.75	735371GF7
2019	5,540,000	5.80	735371GG5
2020	5,860,000	5.85	735371GH3
2021	6,205,000	5.90	735371GJ9
2025	28,640,000	5.75	735371GK6

\* This notice shall be given not more than 60 nor less than 30 days prior to \_\_\_\_\_, 2011. by first class mail to each registered owner of the Refunded Bonds. In addition notice shall be mailed at least 20 days prior to The Depository Trust Company of New York, New York; UBS; Moody's Investors Service; Standard and Poors and Fitch Ratings; and the MSRB.

**By Order of the Port of Seattle**

**The \_\_\_\_\_, as Paying Agent**

Dated: \_\_\_\_\_.

Withholding of 28% of gross redemption proceeds of any payment made within the United States may be required by the Jobs and Growth Tax Relief Reconciliation Act of 2003 (the "Act") unless the Paying Agent has the correct taxpayer identification number (social security or employer identification number) or exemption certificate of the payee. Please furnish a properly completed Form W-9 or exemption certificate or equivalent when presenting your Bonds.



