

**PORT OF SEATTLE COMMISSION MOTION
TO RETAIN OUTSIDE COUNSEL
TO REVIEW A WORKER RETENTION POLICY
FOR THE SEATTLE-TACOMA INTERNATIONAL AIRPORT CONCESSIONS PROGRAM**

STATEMENT IN SUPPORT OF THE MOTION

The Seattle-Tacoma International Airport (the “*Airport*”) is well-known for its award-winning Airport Concessions Program which combines prime concessionaires and direct leases with many small and independent retail and restaurant operators and certified Disadvantaged Business Enterprises (DBE). This hybrid structure allows both famous national brands and local companies with roots in Seattle to serve Airport customers.

Beginning in 2012 to 2014 and especially from 2015 to 2017, the Airport will re-lease and redevelop concession spaces as a result of the expiration of the current leases which were signed in 2005. The Airport anticipates a continuation of the mix of prime concessionaires and direct leases which has been so successful in the last six years. Under the current model, employment in concessions businesses has increased by 90 percent with the addition of 650 jobs, and gross concessions sales have increased by more than 60 percent to \$158 million in 2010.

It has been proposed that the Port of Seattle Commission (the “*Commission*”) adopt a policy involving worker retention requirements for new concession leases. In addition to the question of advisability, there is a question as to whether such a policy is legal under federal law or whether it would violate the permanent federal injunction issued in case of *CityIce Cold Storage Company v. Port of Seattle*. The memorandum entitled “Aviation Concessions Program Principles and Practices” dated November 28, 2011, states that Port of Seattle staff believes there is “significant legal risk” if the Commission adopts a worker retention policy. The Commission has received more detailed legal analysis from Port counsel and also legal analysis prepared by counsel for various outside stakeholders indicating that this is not a settled question and that there are varying interpretations as to the applicability of the law.

The Commission would like to retain outside legal counsel to review the worker retention issue and provide an opinion on whether the Commission could legally adopt a worker retention policy, and whether such a policy could exempt DBEs and small business. The Commission would also like outside legal counsel to suggest any changes in state statutes that might be helpful in this matter.

MOTION

1. The Port of Seattle Commission shall retain its own outside legal counsel to provide an independent review and analysis of the legal basis for a worker retention policy and any related issues as determined by the Commission.
2. In retaining the services of outside counsel, the Commission would like to find an approach addresses concerns of job security for workers currently employed at the

Airport while providing meaningful business opportunities for DBE and other small concessionaires.

3. The Commission may expend up to twenty-five thousand dollars (\$25,000) for these outside legal services. If further funding is required, the Commission will discuss the need for additional funding in open public session.