

**PORT OF SEATTLE**  
**MEMORANDUM**

**COMMISSION AGENDA**  
**STAFF BRIEFING**

<b>Item No.</b>	<u>7b</u>
<b>Date of Meeting</b>	<u>October 9, 2012</u>

**DATE:** October 2, 2012  
**TO:** Tay Yoshitani, Chief Executive Officer  
**FROM:** Ralph Graves, Managing Director Capital Development  
Craig Watson, General Counsel  
**SUBJECT:** Briefing on Proposed Resolution No. 3668

**SYNOPSIS:**

This briefing will review the out-of-date requirements of Resolution No. 3166, which was passed in 1994 and requires the submission of specific mandatory documentation addressing affirmative action goals and reports by contractors, subcontractors, consultants and suppliers. The Port cannot execute a contract until this paperwork is complete.

Resolution No. 3166 is inconsistent with state law because of the passage of Initiative 200 in 1998. Port staff recommends that the Commission adopt an updated resolution consistent with state law but also one that honors the Port's long-term commitment to nondiscrimination, equal employment opportunity, and the promotion of aspirational diversity employment practices. The new resolution also carries out the intent of the September 1, 2009, Commission motion "affirming the Port's commitment to non-discrimination and equal opportunity policies as they apply to our workplace, customers, consultants, contractors and vendors."

At two upcoming meetings, Port staff will present Resolution No. 3668 to repeal Resolution No. 3166 and affirm the Port's adherence to policies promoting nondiscrimination and equal employment opportunity and the recruitment of the under-represented. The new resolution will also make it simpler for contractors, consultants, and suppliers to do business with the Port by eliminating unnecessary and burdensome paperwork.

**BACKGROUND:**

In July 1994, the Commission adopted Resolution No. 3166, which restated affirmative action responsibilities of contractors, subcontractors, consultants, and suppliers doing business with the Port of Seattle. Resolution No. 3166 is still in effect and requires the submission of specific mandatory documentation addressing affirmative action goals and reports by contractors, subcontractors, consultants, and suppliers. The Port cannot execute a contract with contractors, suppliers, and consultants unless the paperwork is complete.

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In April 1998, the Commission adopted Resolution No. 3274 expressing opposition to Initiative 200 and reaffirming the programs that the Port adopted pursuant to Resolution No. 3166. In November 1998, Washington voters passed Initiative 200, also known as the Washington State Civil Rights Initiative. I-200 prohibits discrimination against or preferential treatment to any individual or group on the basis of race, sex, color, ethnicity, or national origin in public employment, education, or contracting. I-200 further prohibits the Port from making contractual preferences or decisions based on compliance with affirmative action goals. However, even though state law changed, the Port did not change its requirements and continues to collect the documentation mandated by Resolution No. 3166.

After the passage of I-200, the Port ceased to obtain any value from the data collected through the Resolution No. 3166 paperwork submittals, which are duplicative of electronic records already collected. Statistical and anecdotal data is readily available through the U.S. Department of Commerce census data and the Port's contractor data system. The documentation required for construction contracts is significant. Eliminating the paperwork requirement will result in estimated savings of \$4,500 per Major Construction contract and \$1,500 per Small Works Construction contract. It will also make it easier for companies, especially small businesses, to do business with the Port.

In a September 1, 2009, motion, the Commission endorsed the Port's long-standing policies of non-discrimination and equal opportunity. The motion directed the Chief Executive Officer to review the current non-discrimination and equal opportunity policies to determine if they are up-to-date and to recommend any appropriate changes to the Commission in compliance with all applicable federal and state equal opportunity laws and regulations. The Commission affirmed that the Port "shall strive for the ideal of being a workplace free of discrimination, bias and hate; respectful of different beliefs, cultures and points of view; and based on the principle of equal opportunity, not to exclude rights and protections to ensure religious, ethnicity, gender, sexual orientation and other protected rights and liberties." These rights and protections apply to our workforce, customers, consultants, contractors, and vendors.

Resolution No. 3668 would codify the intent of this motion and affirmatively require that equal opportunity apply to Port customers, consultants, contractors, and suppliers. Port contracts would continue to require our contractors, suppliers, and consultants to comply with federal, state, and local laws pertaining to non-discrimination and equal employment opportunity. The Port would also include contract language promoting aspirational diversity employment practices as provided by the new resolution.

### **OTHER DOCUMENTS ASSOCIATED WITH THIS BRIEFING:**

- Commission motion (amended) of September 1, 2009.
- Draft Resolution No. 3668.
- Resolution No. 3166.
- Redline version of Resolution No. 3166.

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### **PREVIOUS COMMISSION ACTIONS OR BRIEFINGS:**

- June 23, 1981 – the Commission adopted Resolution No. 2818, relating to discrimination and affirmative action in employment by Port contractors and subcontractors, which was subsequently amended by Resolution No. 2821 on July 14, 1981.
- July 26, 1994 – the Commission adopted Resolution No. 3166, which repealed Resolution Nos. 2818 and 2821.
- April 1, 1998 – the Commission adopted Resolution No. 3274, opposing Initiative 200.
- On September 1, 2009, the Commission adopted a motion regarding nondiscrimination and equal employment opportunity policies.