

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

**COMMISSION AGENDA**

**Item No.** 6c

**ACTION ITEM**

**Date of Meeting** October 23, 2012

**DATE:** October 15, 2012  
**TO:** Tay Yoshitani, Chief Executive Officer  
**FROM:** Ralph Graves, Managing Director Capital Development  
Craig Watson, General Counsel  
**SUBJECT:** First Reading of Resolution No. 3668 repealing Resolution No. 3166 and restating Port policy relating to Discrimination and Equal Employment by Port of Seattle Contractors, Subcontractors, Consultants, and Suppliers.

**ACTION REQUESTED:**

Request First Reading of Resolution No. 3668: A Resolution of the Port Commission of the Port of Seattle repealing Resolution No. 3166 and restating Port policy relating to non-discrimination and equal opportunity in employment and subcontracting by Port of Seattle contractors, subcontractors, consultants, and suppliers and establishing policies, procedures, and requirements for compliance.

**SYNOPSIS:**

Resolution No. 3166 was passed in 1994 and requires the submission of specific mandatory documentation addressing affirmative action goals and reports by contractors, subcontractors, consultants and suppliers. Although some of these requirements are out of date, the Resolution makes this paperwork a requirement of all Port contracts.

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 in employment and subcontracting, equal employment opportunity, and the promotion of aspirational diversity employment practices.

Proposed Resolution No. 3668 would repeal the 1994 resolution while carrying 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." It also simplifies doing business with the Port for contractors, consultants, and suppliers by eliminating unnecessary and burdensome paperwork, which is anticipated to be especially helpful to small businesses.

**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

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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.

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 repeal Resolution No. 3166, codify the intent of the Commission's 2009 motion, and affirmatively require that equal opportunity apply to Port customers, consultants, contractors, and suppliers and that contractors and consultants not discriminate in their subcontracting practices. 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 and prohibiting discrimination in subcontracting practices.

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

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

### **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.
- September 1, 2009 – the Commission adopted a motion regarding nondiscrimination and equal employment opportunity policies.
- October 9, 2012 – Staff briefing on proposed Resolution No. 3668.