



Port of Seattle Commission

Delegation of Responsibility and Authority to the Executive Director

~~As Amended~~
~~_____~~, 2022

Document last updated June 20, 2017

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(DORA)

April 3, 2023

(Resolution No. 3810, Adopted December 13, 2022)

Port of Seattle Commission Delegation of Responsibility and Authority to the Executive Director

Preamble

The Port of Seattle's ("Port") mission is to create jobs by advancing trade and commerce, promoting industrial growth, and stimulating economic development. The Century Agenda, adopted by the Port Commission ~~in late 2012~~, sets out strategies, objectives, and regional initiatives that guide the Port's efforts in pursuit of this mission.

The Port was established under Washington law as a public agency and engages in commercial enterprises that sustain a healthy economy. It is therefore endowed with both governmental and commercial powers. These dual capabilities require institutional frameworks that foster public accountability and empower direct conduct of commercial activity. The Commission ~~is updating the current Master~~ aligns this Delegation of Responsibility and Authority to pursue the Executive Director policy directive ('General Delegation') to the Century Agenda.

The Port is committed to create economic opportunity for all, steward the environment responsibly, partner with surrounding communities, promote social responsibility, conduct itself transparently, and hold itself accountable.

All authority of the Port of Seattle is vested with the Commission in its actions as a public body. Through this ~~new General Delegation~~ delegation policy, the Commission subsequently and hereby vests authority with the Executive Director and delineates Commission and Executive Director responsibilities. It sets expectations and lays the basis for the respective efforts of the Commission and Executive Director to be aligned, complementary, and effective.

*(Res. 3734,
§3, 2017; Res. 3704, §1, 2015)*

Section I: Objectives of this General Delegation:

- A. Create Clarity and Alignment: This General Delegation clearly delineates the responsibility and authority of the Commission and the Executive Director:
 1. The Commission governs the Port, directs all ~~inter-governmental~~ intergovernmental policy functions, and oversees the Executive Director.
 2. Together, the Commission and Executive Director develop the Port's overall vision, strategies, objectives, Policy Directives, long-range plans, major programs and budgets.
 3. The Executive Director executes the long-range plans and major programs, oversees all enterprises and supporting functions, and advises the Commission. *(Res. 3734, §3, 2017; Res. 3704, §1, 2015)*

- B. Provide Transparency and Accountability: This General Delegation specifically calls allows for the development and adoption of Policy Directives to guide the Port's efforts in pursuit of its strategic objectives. Policy Directives:
1. Provide high-level guidance about how the Port does its work based on public values and applicable laws, rules and regulations.
 2. Inform operational policies regarding specific functions at the ~~port~~Port and set appropriate limits.
 3. Deliver standards that support the effective use of the internal audit function to verify compliance. *(Res. 3704, §1, 2015)*
- ~~C. Pursue the Century Agenda: This General Delegation emphasizes long-range plans as the means of pursuing the Century Agenda strategies and objectives. It utilizes the long-range plan approval and update processes to align the Commission and the Executive Director. Long-range plans identify what work needs to be done to pursue strategies and achieve objectives. These describe the 1) strategy and objective(s) being pursued; 2) work plan, resources, and timeline; 3) metrics that monitor progress; and 4) reporting frequency to the Commission. Long-range plans are developed around strategies and objectives, not operating divisions and budgeting periods. *(Res. 3734, §3, 2017; Res. 3704, §1, 2015)*~~
- C. Pursue the Century Agenda: This General Delegation emphasizes the use of Century Agenda ("CA") Goals and Objectives as a means of pursuing the highest strategic aspirations for the Port of Seattle. Through review of Key Performance Indicators ("KPIs") that measure progress towards CA Objectives as well as Executive Director Priorities, the Commission and Executive Director ensure alignment of the Port's mandate, its aspirational and operational goals. The Century Agenda Goals, set by the Commission, set the long-term goals for all divisions and Centers of Expertise. The CA Objectives, set by the Executive Director and Executive Leadership Team (ELT) and approved by commission every 5 years, describe the mid-term objectives and activities that align to the CA Goals. Finally, the Executive Director Priorities describe the annual initiatives and programs that operationalize the CA Objectives. At all levels, KPIs and metrics are employed to monitor and track progress and performance.
- ~~D.~~ D. Empower for Concerted Action: Clear responsibilities and authorities will enable the Commission and Executive Director to work in concert and be effective. *(Res. 3734, §3, 2017; Res. 3704, §1, 2015)*

Section II. Delegation of Responsibility and Authority

- A. Governing the Port of Seattle as its elected body, the Commission shall:

1. Represent the Port to the citizens of King County and to other government bodies.
2. Establish the Port's positions regarding public policy, legislation, and regulation.
3. Appoint the Executive Director.
4. Conduct the annual performance review of the Executive Director and provide input to the Executive Director regarding the performance of those employees that report directly to the Executive Director.
5. ~~Consider all matters in conflict with adopted Policy Directives.~~
- 6.5. Set the ~~port district's~~Port's annual property tax levy.

- ~~7.6.~~ 7.6. Oversee the internal audit function. Consider and authorize any Port borrowed debt, as required by law.
- ~~8.7.~~ 8.7. Reserve to itself all authority not herein ~~expressly~~ delegated. ~~(Res. 3734, §3, 2017; Res. 3704, §1, 2015)~~
- B. Guiding the Port of Seattle and together with the Executive Director, the Commission shall:
1. Develop, adopt, and refine the ~~vision, strategies, long-term goals of the Port and review mid-term CA objectives of the Port and their KPIs.~~ vision, strategies, long-term goals of the Port and review mid-term CA objectives of the Port and their KPIs.
 2. Develop, adopt, and amend Policy Directives.
 3. Direct the Port's advocacy regarding public policies, legislation, and regulation.
 - ~~4. Consider, approve, and refine long-range plans.~~
 - ~~5.4.~~ 5.4. Consider and authorize new enterprises and initiatives.
 - ~~6.5.~~ 6.5. Consider, authorize, and modify major programs and projects.
 - ~~7.6.~~ 7.6. Consider and approve the settlement of any legal claim except as delegated to the Executive Director, ~~as defined under the relevant Policy Directive and~~ General Counsel.
 - ~~8.7.~~ 8.7. Consider and adopt annual operating and capital budgets.
 - ~~9.8.~~ 9.8. Consider and adopt annual salary and benefit resolutions.
 - ~~10.9.~~ 10.9. Consider and approve collective bargaining agreements.
 - ~~11.10.~~ 11.10. Consider and authorize Interlocal Agreements ~~except as delegated to the Executive Director, as defined under the relevant Policy Directive.~~
 - ~~12.11.~~ 12.11. Consider and authorize the acquisition and sale of real property and other capital assets except as delegated to the Executive Director.
 - ~~13.12.~~ 13.12. Consider and establish industrial development districts and utilities.
 - ~~14.13.~~ 14.13. Consider and approve assignment of defense counsel for any ~~employee accused of fraud or criminality. (Res. 3734, §3, 2017; Res. 3704, §1, 2015)~~ officer, employee or agent of the Port as authorized by law, except as delegated in Section 7.2.1.
- C. Serving the Port of Seattle and the Commission, the Executive Director shall:
1. Prepare the Port's long-range plans reporting on Century Agenda Objectives

and ~~plan updates~~ set Executive Director Priorities in strategic alignment with the objectives.

2. Evaluate promising new enterprises and initiatives; prepare proposals as warranted.
 3. Develop major programs and projects and updates to major programs and projects.
 4. Prepare operating and capital budgets.
 5. Negotiate collective bargaining agreements.
 6. Manage and supervise all legal services, litigation, engagement of outside legal counsel and other experts (subject to the limitations of RCW 53.08.208), settlements and claims filed for and against the Port, in keeping with relevant Policy Directives or cause such activities to be carried out by the General Counsel.
 7. Evaluate possible acquisitions and sales of real property and other capital assets; prepare proposals as warranted.
 8. Evaluate possible establishment of industrial development districts and utilities; prepare proposals as warranted.
 9. Report regularly to the Commission on delegated responsibilities, industry trends, and economic developments. *(Res. 3734, §3, 2017; Res. 3704, §1, 2015)*
- D. Managing the Port of Seattle in keeping with the above, the Executive Director shall:
1. Represent the Port to customers and industry stakeholders.
 2. Carry out all policy directives, long-range plans, major programs, and implement projects.
 3. Execute contracts and other necessary documents.
 4. Select and manage all staff and outside resources necessary to carry out long-range plans, major programs and projects, maintain facilities, and provide supporting functions.
 5. Determine the organizational structure of enterprises and their supporting functions.
 6. Administer collective bargaining agreements.
 7. Administer ~~inter-local agreements~~ Interlocal Agreements, and execute where authorized.
 8. Administer the payment of short-term liabilities and other expenses.

9. Establish operational, administrative, monetary, and contractual policies, delegations, rules, tariffs, regulations and procedures in accordance with this Delegation, adopted Policy Directives and all applicable law and regulation.
10. Establish and regularly report to the Commission on continuous process improvement programs, including metrics that shape and measure progress on strategies, objectives, long range plans, and major programs CA Objectives, CA KPIs and Executive Director Priorities, as necessary.
11. Approve travel by employees and other authorized representatives.
12. Apply for and accept grants and other funds from federal, state or local governments.
- ~~13. Apply for permits associated with facilities and projects.~~
13. Prepare and submit applications for permits, regulatory approvals, entitlements, and other authorizations associated with facilities and projects, agree to permit conditions and mitigation, and fulfill permit requirements and obligations. Execute permit-related documents in furtherance of the implementation of permits, including restrictive covenants and hold harmless agreements and agreements for expediting processing for permits.
14. Carry out additional responsibilities as may be further delegated.
15. Determine, sell and convey Port personal, tangible, and intangible property, including mitigation credits, in accordance with ~~the~~any limits set by law.
16. Provide resources for the preparation for and management of Port borrowed debt. *(Res. 3734, §3, 2017; Res. 3704, §1, 2015)*

RESOLUTION NO. 3605, as amended by Resolution No. 3628

[The following reflects the portions of the existing Delegation of Authority in effect and continuing in effect at the time of amendment by Resolution 3704 in 2015.]

PREAMBLE *(Repealed by Res. 3704)*

17. Negotiate and obtain appropriate policies of insurance to cover Port property, liability, employee coverages, and other areas appropriately included within a comprehensive insurance program. The Executive Director is authorized to approve changes or modifications within that program or individual policies including provisions for self-insurance or deductibles.

Section 1. **ROLES AND RESPONSIBILITIES OF THE CEO** *(Repealed by Res. 3704)*

Section 2. REAL PROPERTY AGREEMENTS

~~2.1. The Port will pursue opportunities if they enhance its ability to preserve scarce land resources – marine or aviation – of unique value for Port uses. (Res. 3605, §1, 2008)~~

~~2.2.1.1~~ Types of Agreements: The directives in this Section ~~21~~ apply to all agreements or transactions for use of Port real property, including but not limited to leases, concession agreements, rental agreements, operating agreements, berthing agreements, tenant reimbursement agreements, licenses, easements, permits, rights of entry and other use agreements (all referred to collectively as "Real Property Agreements" or at times referred to as "Agreements") or to agreements for the Port's use of real property owned by others. *(Res. 3605, §1, 2008)*

~~2.3.1.2~~ General Real Property Agreement Policies

~~2.3.1.1.2.1~~ Except as otherwise provided in this ~~Resolution~~General Delegation, all real property of the Port shall be used pursuant to an appropriate written Agreement approved and executed as authorized by the Port Commission or Executive Director and accompanied by a security deposit in accordance with ~~law~~applicable law and Port Real Estate Policies and Procedures.

~~2.3.2.1.2.2~~ Prior to the execution of Agreements, the Executive Director shall have authority to negotiate such Agreements ~~and shall apprise the Port Commission of the progress of negotiations~~; obtain appropriate appraisals where necessary; provide for appropriate ~~deposit~~security deposit; submit Agreements to the Port's General Counsel's office for approval in writing; and follow all other applicable laws and Port Real Estate Policies and Procedures.

(Res. 3734, §3, 2017; Res. 3605, §1, 2008)

~~1.2.3~~ Real property conveyances between the Port and other governmental entities. Notwithstanding any other provision herein, delegation authority for agreements between the Port and other governmental entities, where the primary purpose of the agreement is the conveyance of real property, by deed, easement, lease, license or similar instrument, shall be governed by the provisions of this Section 1.

~~2.4.1.3~~ Real Property Agreement Procedures.⁴ The Executive Director is authorized to perform the following actions, including executing agreements incidental to such actions, without Commission approval, ~~but must semi-annually provide the Commission a report summarizing such actions. To the extent Executive Director authority for a specific Agreement action is not provided within this Section, approval of such action must be by Commission authorization.~~

⁴Subsection 2.4 was erroneously labeled 2.3 in Resolutions 3605 and 3628. This and subsequent subsections have been renumbered accordingly.

2.4.1.1.3.1 Agreements -with a term of five years or less: Any Agreement having a term (including any tenant or Port options) of five ~~years~~years' duration or less may be approved and executed by the Executive Director provided that: (i) the Port's standard Agreement form is used or, if no standard form exists, the form used has been approved by the Port's General Counsel's office; (ii) the Agreement provisions conform to the Port's real estate policies and procedures; and (iii) the ~~Port's Agreement includes no Port obligation to make a specific, noncontingent monetary obligations under the Agreement, if any, are less than payment or equal to Three Hundred Thousand reimbursement exceeding One Million Dollars (\$3001,000).~~ Port's Agreement includes no Port obligation to make a specific, noncontingent monetary payment or equal to Three Hundred Thousand reimbursement exceeding One Million Dollars (\$3001,000). ~~(Res. 3734, §3, 2017; Res. 3628, §1, 2009; Res. 3605, §1, 2008),000).~~

2.4.2.1.3.2 Assignments, subleases, consents to assignments and subleases, amendments, approvals, or options for Agreements with a term of five years or less. ~~Where an Agreement permits assignments:~~ Assignments, subleases, consents, amendments, approvals or options, the same for Agreements with a term of five years or less may be approved and executed by the Executive Director, but only if (a) other substantive provisions of the Agreement, except rental increases, remain unchanged; (b) any new term extension, option or options do not result in an extension of the original term of the Agreement (including original tenant or Port options) beyond five years; (e)b) any rental adjustments (increases or decreases) consistent with the Port's real estate policies and procedures are made; and (d) any new financial-c) there is no Port obligation undertaken by the Port is less than to make a specific, noncontingent monetary payment or equal to Three Hundred Thousand reimbursement cumulatively exceeding One Million Dollars (\$3001,000). ~~(Res. 3734, §3, 2017; Res. 3628, §1, 2009; Res. 3605, §1, 2008),000).~~

2.4.3.1.3.3 Assignments, subleases, consents to assignments and approvals, amendments or approvals for Agreements with a term in excess of five years. ~~Where an Agreement permits assignments~~ Such Assignments, subleases, consents, amendments or approvals, the same may are authorized to be approved and executed by the Executive Director, but only if (a) other substantive provisions of the Agreement (including the term of the Agreement) remain unchanged; (b) , rental adjustments (rates, environmental provisions, and the square footage of the premises under the Agreement (excluding increases or decreases) consistent with to the Port's Real Estate Policies and Procedures are made; square footage of the premises not exceeding 10% of the original square footage) remain unchanged; (b) the required security is not decreased (excluding pro rata decreases resulting from permissible decreases in square footage); and (d) any new monetary obligation undertaken by the Port does not exceed Three Hundred Thousand Dollars (\$300,000). ~~(Res. 3734, §3, 2017; Res. 3628, §1, 2009; Res. 3605, §1, 2008)c) there is no Port obligation to make a specific, noncontingent monetary payment or reimbursement exceeding One Million Dollars (\$1,000,000). Consents to Assignments and Subleases, and amendments to correct administrative errors may be approved and executed by the Executive Director.~~

Temporary easements

~~2.4.4. Easements~~, licenses, access permits or other rights of entry or use agreements over Port property. Where the easements, licenses, permits or other rights of entry or use agreements: (a) either relate to or benefit the Port's operations, or do not have a term exceeding five years; and (b) do not ~~require that~~obligate the Port ~~undertake a new financial obligation.~~ *(Res. 3605, §1, 2008)*

~~2.4.5.1.3.4 Permanent easements over~~to make a specific, noncontingent monetary payment or reimbursement exceeding One Million Dollars (\$1,000,000) and do not deprive the Port of substantial use of the property ~~or over the property of others. For the installation, maintenance or construction of utilities benefiting Port properties; provided there is no new financial obligation to the Port.~~ Permanent easements which deprive the Port of substantial use of Port property require Port Commission approval (unless previously approved as part of a larger action) and must comply with the appraisal requirements of Section ~~3.~~ *(Res. 3605, §1, 2008)*2.

~~2.4.6. Temporary easements for the Port to use the property of others. Where (i) the Port's total financial obligation over the term of the easement (including options) is less than or equal to Three Hundred Thousand Dollars (\$300,000), and (ii) the term of the easement does not exceed five (5) years (including options). (Res. 3628, §1, 2009; Res. 3605, §1, 2008)~~

1.3.5 Permanent easements over Port property for installation or construction of utilities or street improvement infrastructure. The Executive Director may approve and execute permanent easements over Port property for installation or construction of utilities (including stormwater, sewer, electrical or gas) or for street improvement infrastructure (including sidewalks, signage or signaling) provided the permanent easement either (a) does not deprive the Port of substantial use of Port property; or (b) consists of Port property not exceeding 1,000 square feet and complies with the appraisal requirements of Section 2.

1.3.6 Easements over the property of others. The Executive Director may approve and execute easements in favor of the Port over the property of others, provided such easements either (a) are aviation easements in support or protection of airport operations or (b) include no Port obligation to make a specific, noncontingent monetary payment or reimbursement exceeding One Million Dollars (\$1,000,000).

~~2.4.7.1.3.7~~ Agreements (other than easements) for the Port's use of the property of others, including leases, rental agreements, operating agreements, licenses, access permits, street use permits, rights of entry and other use agreements. Where (i) the Port's total monetary obligation for the term of the Agreement is less than or equal to Three Hundred Thousand Dollars (\$300,000), and (ii) the term of such Agreement does not exceed five (5) years (including options). (Res. 3628, §1, 2009; Res. 3605, §1, 2008) The Executive Director may approve and execute Agreements (other than easements) where the Agreement includes no Port obligation to make a specific, noncontingent monetary payment or reimbursement exceeding One Million Dollars (\$1,000,000).

2.5. Reimbursements to Airport tenants

~~2.5.1. The Executive Director may approve reimbursements to Airport tenants for work performed by such tenants to improve Airport premises so long as the total reimbursement amount: (i) is less than or equal to Two Hundred Thousand Dollars (\$200,000), (ii) the plans and specifications for such improvements and (iii) the work as completed is acceptable as determined by policies and procedures promulgated by the Executive Director. (Res. 3734, §3, 2017; Res. 3628, §1, 2009; Res. 3605, §1, 2008)~~

~~2.5.2. The Executive Director shall implement procedures for the reimbursement of Airport tenant improvements. Such procedures must include allowable cost categories and provide for their consistent application among all tenants. (Res. 3734, §3, 2017; Res. 3605, §1, 2008)~~

2.6.1.4 Executive Director to ensure compliance. The Executive Director is charged with the responsibility to ensure that all Agreement terms are complied with and is authorized to take necessary measures to ensure compliance or to protect the Port's legal position, including but not limited to subjecting Agreements to Port internal audits, termination of Agreements and the giving of all notices provided for in Agreements. *(Res. 3734, §3, 2017; Res. 3605, §1, 2008)*

2.7.1.5 Real property agreement security and insurance. The Executive Director is authorized to take all necessary actions in connection with Agreement surety bonds, letters of credit, cash deposits or other legal security ("Agreement Security") and insurance coverage required pursuant to any Agreements of the Port, including, but not limited to, the following:

2.7.1.1.5.1 Release Agreement Security: (i) where adequate substitute Agreement Security has been provided, and the Agreement is not in default; or (ii) when an Agreement has expired or is terminated (for other than a default).

2.7.2.1.5.2 Approve terms of any Agreement Security or insurance submitted in fulfillment of the requirements of any Agreement, including substitute or replacement Agreement Security or insurance coverage.

2.7.3.1.5.3 Approve (i) substitutions, replacements and modifications of Agreement Security or insurance coverage that are not inconsistent with Agreement terms, and (ii) release any insurance company, bonding company or financing institution when acceptable substitute or replacement insurance coverage has been provided.

(Res. 3734, §3, 2017; Res. 3605, §1, 2008)

Section 32. REAL PROPERTY ACQUISITIONS AND SALES; STREET VACATIONS

3.1.2.1 Appraisals. The Executive Director is authorized to obtain appropriate appraisals for use in evaluating or negotiating any proposed Port acquisition, sale, lease, permanent easement or other interest in real property. *(Res. 3734, §3, 2017; Res. 3605, §1, 2008)*

3.2.2.2 Acquisitions. After the Commission authorizes the Port's acquisition of real property by negotiated purchase or condemnation, the Executive Director is authorized to take all necessary steps, including executing all required closing documents, to secure title of such property for the Port. The acquisition price (i) of individual properties and (ii) of several properties under the same ownership (when acquired in the same transaction), shall in no case exceed the Port's appraisal by more than ten percent (10%) without further specific Commission approval. *(Res. 3734, §3, 2017; Res. 3605, §1, 2008)*

3.3.2.3 Sales. When the Commission authorizes the sale of Port real property in accordance with State law and Commission policy, the Executive Director is authorized to take all other necessary steps, including executing all required closing documents and executing and delivering conveyance instruments, to finalize the sale. *(Res. 3734, §3, 2017; Res. 3605, §1, 2008)*

3.4.2.4 Street Vacations. The Executive Director is authorized to make application for vacation of city or county streets or roads and to take all other steps necessary to acquire a fee interest in streets or roads ancillary to Port development, if the estimated acquisition costs are less than or equal to ~~Three Hundred Thousand~~ Ten Million Dollars (~~\$300~~10,000). *(Res. 3734, §3, 2017; Res. 3628, §1, 2009; Res. 3605, §1, 2008)*.

Section 4. PUBLIC WORK3. PROJECTS

4.1.3.1 Projects ~~that constitute or include public work~~ shall be authorized utilizing the procedures outlined below. ~~These projects generally include planning, scoping, engineering, design, permitting, construction, and request for qualifications, contract~~

~~administration or related work. In the event that a project includes, as a component, any work constituting a public work, it shall be approved and executed under this Section. Projects may be either capital or expense and their designation as a public work is not dependent on the source of funds. (Res. 3605, §1, 2008).~~

4.2.3.2 Project Authorization

4.2.1. ~~Preliminary Project Work~~

~~4.2.1.1.3.2.1~~ 3.2.1 . Preliminary project work includes, but is not limited to, such activities as planning, programming, concept design up to 30% design, surveys, geotechnical investigations, and/or market analyses. The Executive Director is authorized to perform such preliminary project work up to Two Million Dollars (\$2,000,000) without prior Commission approval. ~~The Executive Director may further contract for professional, personal and/or purchased services necessary for the performance of preliminary project work without prior Commission approval, so long as the cost for all such work is less than or equal to Three Hundred Thousand Dollars (\$300,000) and the selection and payment requirements in Section 7 are followed, even if the budget of the Project is expected to exceed Ten Million Dollars (\$10,000,000).~~

(Res. 3734, §3, 2017; Res. 3628, §1, 2009; Res. 3605, §1, 2008)

~~4.2.2.3.2.2~~ 3.2.2 Total Project Cost Less than \$300,000 10 Million. For ~~projects~~ Projects where the estimated total project budget is less than or equal to ~~Three Hundred Thousand~~ Ten Million Dollars (~~\$300~~ 10,000,000), the Executive Director is authorized to ~~complete the project~~ take all steps necessary, including the ~~preparation of plans and specifications, the issuance of request for proposals or notice calling for bids, the award of~~ execution of all contracts for work. If at any time it appears that the ~~project, including Public Works, Alternative Public Work procedures in accordance with RCW 39.10, Goods and Services, Personal Services, Professional Services, other consulting services, and any other types of contracts or agreements in furtherance of the Project. If the Project cannot be completed for a total of less than or equal to Three Hundred Thousand dollars (\$300,000),~~ Ten Million Dollars (\$10,000,000) or less, Commission authorization, as set forth more specifically below, shall be required before ~~proceeding further with the project.~~ exceeding the Ten Million Dollar (\$10,000,000) threshold. Projects shall not be broken into units or accomplished in phases in order to avoid the requirement for Commission authorization that would otherwise apply to ~~projects~~ Projects more than ~~Three Hundred Thousand dollars (\$300,000)~~. The Executive Director will utilize the employee code of conduct, as well as all other relevant policies to discipline, up to and including termination, for any employee found to have deliberately misled the Commission. *(Res. 3734, Ten Million Dollars (\$10,000,000).*

§3, 2017; Res. 3628, §1, 2009; Res. 3605, §1, 2008)

~~4.2.3.~~ Total Project Cost More than \$300,000 10 Million. For ~~projects~~ Projects where the estimated total ~~project~~ Project budget is more than ~~Three Hundred Thousand~~ Ten Million Dollars (~~\$300~~ 10,000,000), Commission approval of the Project budget is required:

~~4.2.3.1.~~ Projects costing more than \$300,000 will require separate Commission approval for (i) a review of project feasibility and authorization to complete design, (ii) the authorization of construction and approval to advertise, (iii)

~~and an authorization to award the contract. (Res. 3628, §1, 2009; Res. 3605, §1, 2008)~~

~~4.2.3.2.3.2.3 Potential Commission Action. Notwithstanding Section 4.2.3.1, prior Commission authorization will not be except for preliminary project work under Section 3.2.1 above. The Executive Director is authorized to take all steps necessary for the award of the public work contract where the contract has been let using a traditional design, including the execution of all contracts, including Public Works, Alternative Public Work procedures in accordance with RCW 39.10, Goods and Services, Personal Services, Professional Services, other consulting services, and any other types of contracts or agreements in furtherance of a Commission approved Project budget.~~

~~bid-build methodology and there are no bid irregularities; provided, the Executive Director shall promptly provide the Commission with notice of award pursuant to this provision. The Commission shall have five business days after notice by the Executive Director to request a delay in approval until the next public Commission meeting. A request for such a delay automatically requires a vote by a quorum of the full Commission on the decision to award. (Res. 3734, §3, 2017; Res. 3605, §1, 2008)~~

~~4.2.3.3. Project Changes. Additional Commission authorization shall be required if (i) it becomes apparent at any time that the projecta Project cannot be completed for less than or equal to Ten Million Dollars (\$10,000,000), or within the ~~authorized amount~~ authorized by Commission (including contingency), (ii) ~~project changes or delays will have material, financial, community or business impacts,~~ (iii) or there has been a material change in project scope as compared with the original scope of work authorized by the Commission. (Res. 3605, §1, 2008)~~

~~4.2.3.4. Bid Irregularities. A bid irregularity occurs where (i) there is an unresolved formal bid protest, (ii) the lowest bid is more than ten percent (10%) over the engineer's estimate, (iii) there is only a single bidder, (iv) the award is to be made to other than the lowest responsible bidder, or (v) there is a material deviation from the Port's General Conditions. Any one of these situations, or combination thereof, constitutes a bid irregularity and requires subsequent Commission actions to authorize the Executive Director to proceed. (Res. 3734, §3, 2017; Res. 3605, §1, 2008)~~

~~4.2.3.5.3.2.4 Reporting on Projects. Unless the Commission requests more frequent reporting, the Executive Director shall report quarterly on the progress and status of all Commission authorized public works. The status report on each project shall include (i) whether the project is on schedule and, if not, the reasons for delay; (ii) whether the project is on budget and, if not, the sources of any cost overruns; (iii) notice of any change order(s) that individually or in the aggregate total more than \$300,000 or ten percent (10%) of the total prior to exceeding either Ten Million Dollars (\$10,000,000) or the approved contract amount; (iv) any budget transfers of over \$300,000 between active construction contract projects; (v) any current risk factors that, in the opinion of the Executive Director, are substantially likely to lead to a significant increase in project cost or a significant delay in the project; (vi) any other significant developments with respect to the project or other information regarding the status of the project that the Executive Director believes should be brought to the Commission's attention including requests for equitable adjustments or claims. (Res. 3734, §3, 2017; Res. 3628, §1, 2009; Res. 3605, §1, 2008)budget. Project changes, including amendments and change orders, within budget shall comply with CPO policies.~~

~~4.2.3.6. Authorization for Emergency Work. When any emergency requires the~~

immediate execution of a contract for work, the Executive Director is authorized to make a finding of the existence of such emergency and

3.2.5 execute any contracts necessary to respond to the existing emergency. For purposes of this section "emergency" means unforeseen circumstances beyond the control of the municipality that either: (a) presents a real, immediate threat to the proper performance of essential functions; or (b) will likely result in material loss or damage to property, bodily injury, or loss of life if immediate action is not taken. The Executive Director shall comply with any legal requirements related to any contracts or agreements issued under the declaration of the emergency and otherwise keep the Commission informed of the development of the emergency situation and the progress of any contracts and agreements executed to remedy the emergency. The Executive Director shall provide notice of this Emergency Work to the public. ~~(Res. 3734, §3, 2017; Res. 3628, §1, 2009; Res. 3605, §1, 2008)~~

~~4.2.3.7. Authorization for Critical Work. Under circumstances not constituting a legally--defined emergency, but otherwise requiring immediate action to avoid significant adverse consequences to public health, safety or property, the Commission authorizes the Executive Director to spend up to Five Hundred Thousand Fifteen Million Dollars (\$~~500~~15,000,000) to prevent potentially significant adverse consequences to public health, safety or property. The Executive Director shall have authority to spend the funds if: (i) the circumstances are such that a true emergency as defined by RCW 39.04.280 is substantially likely to develop unless action is taken; or (ii) any delay in addressing the situation will likely result in significant cost increases or adverse schedule impacts to the Port, other public agencies or private property owners; and~~

3.2.6 (iii) where prior Commission authorization cannot, even on an expedited basis, be obtained. When the Executive Director authorizes Critical Work to be undertaken, he or she shall notify the Commission as soon as practicable of his or her action, the amount of money spent and obtain Commission ratification at the next public meeting. The Executive Director shall also provide notice of this Critical Work to the public. ~~(Res. 3734, §3, 2017; Res. 3628, §1, 2009; Res. 3605, §1, 2008)~~

~~4.2.3.8. Change Orders for Contracts over \$300,000. For those contracts for which Commission authorization is required under this section, where the work is in progress and changes in plans and/or specifications are necessary to properly accomplish the work, the Executive Director is authorized to execute change orders to the contract provided the following conditions are met:~~

~~(i) Either the estimated cost of the changes in plans and/or specifications will not exceed Three Hundred Thousand Dollars (\$300,000.00) or 10% of the contract price, whichever is less, or~~

~~(ii) The time extension for completion of the contract for any single change order does not exceed sixty (60) calendar days, or~~

~~(iii) The change order is necessary due to an emergency as described in Section 4.2.3.6. or a critical situation as described in Section 4.2.3.7. Change orders will then be handled in accordance with those sections.~~

~~Change orders not meeting the above conditions require Commission approval.~~

~~When an individual change order causes the total dollar amount of cumulative change orders to exceed 10% of the original contract amount, the Commission shall be notified at the time of execution of the change order, including the circumstances that have contributed to the cost growth of the project, and any measures taken to respond to those factors. Additional notices of that nature will be required if the project exceeds 25%, 50%, 75% and 100% of the original contract amount. Notices above that level will be provided for every 50% rise in project cost. (Res. 3734, §3, 2017; Res. 3628, §1, 2009; Res. 3605, §1, 2008)~~

~~4.2.3.9.3.2.7~~ Budget Transfers. The Executive Director is authorized to transfer budget funds for projectst~~transferring scope of work from one executed contract to another~~ for Projects that have been authorized under the following conditions:

(i) If all ~~projects~~Projects affected have been previously approved by the Commission or the Executive Director; and

(ii) If the amount of transfer is less than or equal to ~~\$300~~10,000,000; and

(iii) If doing so results in a cost or time savings, or other tangible benefit to the ~~project~~Project.

All such transfers will be reported to the Commission as soon as is practicable. All budget transfers more than ~~\$300~~10,000,000 must be approved by the Commission.

~~Such transfers and benefits will be included in the quarterly project reports as described in Section 4.3.5.~~ Any transfer not meeting all of the above conditions will require Commission approval. ~~(Res. 3734, §3, 2017; Res. 3628, §1, 2009; Res. 3605, §1, 2008)~~

~~4.3.~~ 3.2.8 Small Works Construction Contracts— and Job Order Contracts. The Executive Director may, without Commission approval, ~~prepare plans take all action to execute and specifications, issue notice calling for bids, award and accept~~administer these contracts, ~~issue change orders, and take any and all necessary steps to complete the work in compliance with RCW 53.08.120, RCW 39.04.155~~10.420-460, and Port policies and procedures, ~~where the total~~

~~estimated cost of the project work does not exceed the amount authorized by RCW 53.08.120 and RCW 39.04.155. The Commission shall be provided with a report regarding such contracts semi-annually. (Res. 3734, §3, 2017; Res. 3628, §1, 2009; Res. 3605, §1, 2008)~~

~~4.4. Small Works Change Orders for Construction Contracts. Where contracts for the performance of work have been awarded and under which work is in progress, and changes in plans and specifications are necessitated in order to properly accomplish the work, the Executive Director is authorized to execute change orders to the contract provided the following conditions are met:~~

- ~~(i) The estimated cost of the changes in plans and specifications will not cause the total contract to exceed the small works contract amount authorized by RCW 53.08.120 and RCW 39.04.155;~~
- ~~(ii) The time extension for completion of the contract for any single change order does not exceed sixty (60) calendar days; or~~
- ~~(iii) The change order is necessary due to an emergency as described in Section 4.2.3.6. or a critical situation as described in Section 4.2.3.7. Change orders will then be handled in accordance with those sections.~~

~~Change orders not meeting the above conditions require Commission approval. (Res. 3734, §3, 2017; Res. 3628, §1, 2009; Res. 3605, §1, 2008)~~

Section 5. NON-PUBLIC WORK PROJECTS

~~5.1. Other projects that do not constitute or include public works (as that term is defined in Section 39.04.010 of the Revised Code of Washington) shall be authorized utilizing the procedures outlined below. Projects under this Section may be either capital or expense and their designation as non-public work does not depend on the source of funds. Projects do not, however, include regular, recurring or routine work associated with the day-to-day management and normal operations of the Port.~~

~~By way of example, projects by the Information and Communication Technology (ICT) Department will frequently fall within this category. ICT Projects may include (but would not be limited to) the major upgrade or replacement of an information or communication hardware or software system. Projects would not, however, include regular, recurring expense work necessary for system security, integrity, or continuity such as minor software upgrades recommended for licensed software applications; equipment refresh programs performed in accordance with pre-defined criteria (e.g. desktop/laptop replacement); systems analysis; business planning; or the sealing of existing information systems to meet gradual increases in Port demands (e.g. adding expanded data storage capacity). (Res. 3605, §1, 2008)~~

5.2. Project Authorization.

~~5.2.1. Project Authorization Procedures. All project authorization procedures for non-public work projects will follow procedures laid out in Sections 4.2 through 4.3., except for the procedures noted below. (Res. 3628, §1, 2009; Res. 3605, §1, 2008)~~

~~5.2.2. Total Project Cost More than \$300,000.² For projects where the estimated total project budget is more than Three Hundred Thousand dollars (\$300,000), Commission approval is required. Projects subject to this Section will not typically require the development of detailed designs or specifications by architects, engineers or other licensed professionals the selection of whom is subject to Chapter 39.80 of the Revised Code of Washington prior to proceeding with actual project implementation. Therefore, Commission authorization will generally be required only for review of project feasibility and authorization of funds for the acquisition of all necessary goods, materials and services necessary to implement and complete the project. (Res. 3628, §1, 2009; Res. 3605, §1, 2008)~~

~~5.2.2.1. However, if a particular project requires the development of detailed designs or specifications by architects, engineers or other licensed professionals prior to proceeding with actual project implementation, Commission authorization will also first be required for (i) initial review of project feasibility and (ii) authorization of funding to develop the detailed designs and/or specifications and complete the project plan. (Res. 3605, §1, 2008)~~

~~5.2.3. Reporting on Projects.³ See Section 4.2.3.5. (Res. 3628 §1, 2009; Res. 3605, §1, 2008)~~

~~5.2.4. Emergency work. See Section 4.2.3.6. (Res. 3605, §1, 2008)~~

~~5.2.5. Critical work. See Section 4.2.3.7. (Res. 3605, §1, 2008)~~

~~5.2.6. Change Orders. See Section 4.2.3.8. (Res. 3605, §1, 2008)~~

~~5.2.7. Budget Transfers. See Section 4.2.3.9. (Res. 3605, §1, 2008)~~

Section 6. Section 4. CONTRACT AND PROCUREMENT ADMINISTRATION

6.1.4.1 Subject to the requirements of this Section, the Executive Director is authorized to ~~prepare, negotiate, and manage~~ **and execute** all aspects of Port contract administration and procurement activities in order to conduct the Port's business, provided that all applicable laws and Port policies are met. *(Res. 3734, §3, 2017; Res. 3605, §1, 2008)*

² Sub-subsection 5.2.2 was erroneously labeled 5.3.2 following a deletion in Res. 3628. This and subsequent subsections have been renumbered accordingly.

³ Sub-subsection 5.2.3 was erroneously labeled 5.3.4 in Res. 3605. This and subsequent subsections have been renumbered accordingly.

~~6.2.4.2~~ Bid/proposal protests shall be resolved in accordance with the administrative procedure in the Port's standard contract specifications or as established by Port policies and procedures from time to time. *(Res. 3605, §1, 2008)*

~~6.3.~~ The Executive Director is authorized to amend any agreement for the procurement of goods and services and/or purchased services provided the following conditions are met:

~~6.3.1.~~ For any project for which Commission authorization was required, the amendment to any agreement does not exceed Three Hundred Thousand dollars (\$300,000.00) or ten percent (10%) of the authorized project budget, whichever is less.

~~6.3.2.~~ The amendment to any agreement for the procurement of services complies with SSHB 3274, or its equivalent codification in the RCWs.

(Res. 3734, §3, 2017; Res. 3628, §1, 2009; Res. 3605, §1, 2008)

~~6.4.~~ It is the Port of Seattle's policy to engage in competitive solicitation of bids for all services and purchases, as adopted in accordance with provisions in Chapter 53.19. RCW in order to promote full and open competition, transparency in its procurement practices, opportunities for small businesses, and compliance with all legal requirements. *(Res. 3605, §1, 2008)*

~~6.5.4.3~~ The Executive Director is authorized to approve competition waivers consistent with applicable federal and state laws and internal Port policies. ~~Situations where the Executive Director may approve competition waivers include contracts where the following conditions exist:~~

~~(i) There is only one source for the service or product; or~~

~~(ii) The only source for the service or product is proprietary in nature; or~~

~~(iii) There is only one source for the service or product that is compatible with existing Port infrastructure, or required for inter-operability; or~~

~~(iv) The waiver is necessary to authorize work with a contractor or service provider who has exclusive knowledge that was provided during a prior phase of the contract or project.~~

(Res. 3734, §3, 2017; Res. 3605, §1, 2008)

~~6.6.~~ Notification of all such waivers shall be provide to the Commission prior to the proposed starting date of the contract or purchase, and will include a written justification of the reason for the waiver. *(Res. 3605, §1, 2008)*

Section 7. PROFESSIONAL, PERSONAL, AND PURCHASED5. GOODS/, SERVICES, AND OTHER AGREEMENTS

7.1. Professional Services.

~~7.1.1. The Executive Director is authorized to contract for professional services with qualified firms that are licensed in the State of Washington to provide such services as required for preliminary engineering, planning, environmental permitting, construction permitting, project scoping, construction management; or for similar purposes reasonably required in connection with public works; so long as the fees for any single project or closely related work without Commission authorization for the work to be performed as part of the authorization for project design under Section 4, less than or equal to Three Hundred Thousand Dollars (\$300,000).~~

~~7.1.2. For services not ancillary to projects, the Executive Director is authorized to contract for professional services so long as the fees [are] less than or equal to Three Hundred Thousand Dollars (\$300,000).~~

~~7.1.3. The Executive Director will endeavor to use a variety of firms (including small business firms) based on the nature of the work and the expertise of the firms. The Executive Director will develop or oversee strategies to identify and certify firms to compete on such projects.~~

~~(Res. 3734, §3, 2017; Res. 3628, §1, 2009; Res. 3605, §1, 2008)~~

7.2.5.1 Personal Services.

~~7.2.1.5.1.1~~ The Port of Seattle's procurement policy for personal services contracts, as adopted in accordance with RCW 53.19.090, promotes full and open competition, transparent procurement practices, opportunities for small businesses, and compliance with all laws. All Port of Seattle personal service policies and procedures shall specifically conform to Chapter 53.19 RCW.

~~7.2.2. The Executive Director is authorized to contract for personal services in accordance with qualified consultants so long as RCW 53.19.060, substantial changes in the fees for any single project or closely related scope of work are less than or equal to Three Hundred Thousand Dollars (\$300,000).~~

~~7.2.3. For services not connected to projects, specified in the Executive Director is authorized to contract for personal services so long as contract or which are substantial additions to the fees are less than or equal to Three Hundred Thousand Dollars (\$300,000).~~

~~7.2.4. The Executive Director is authorized to amend service agreements so long as scope of work specified in the fee increase associated with the amendment is~~

~~less than or equal to Three Hundred Thousand Dollars (\$300,000). All amendments over that amount require formal solicitation document shall be submitted to the Commission approval. The Commission must for a determination as to whether the change warrants the work to be notified of any awarded as a new contract. An amendment or~~

amendments to personal service contracts prior to the proposed starting date of service, if the value of the amendment or amendments, whether singly or cumulatively, exceeds fifty percent (50%) of the value of the original contract.

~~7.2.5. The Executive Director will endeavor to use a variety of firms, including small business firms, based on the nature of the work must be filed with the Commission and the expertise of the firms. The Executive Director will develop or oversee strategies to identify and certify firms to compete on such projects.~~

~~7.2.6. The Executive Director shall develop an appropriate training program for Port staff with respect to efficient and effective contract management. Port employees responsible for executing or managing personal services contracts shall complete the Port's training program. The training program will be based on law, Port policy and made available for public sector contracting best practices.~~

5.1.2 (Res. 3734, §3, 2017; Res. 3628, §1 inspection prior to the proposed starting date of services under the amendments. The Executive Director is authorized to execute any amendments which meet the requirements of this Section 5.1, 2009; Res. 3605, §1, 2008).2.

7.3. Purchased Goods/Services

7.3.1.5.2 Contracts. The Executive Director shall have the responsibility for following all ~~statutory~~ requirements and procedures in connection with all contracts ~~for the acquisition of goods and purchased services~~. Goods and purchased services may be acquired on the open market, pursuant to published tariffs, or by competitive bidding when required, for the normal maintenance and operations of the Port without prior Port Commission approval so long as, where appropriate, such acquisitions shall be approved as a part of normal monthly expenses. ~~The Executive Director may execute contracts for such acquisitions, subject to the following conditions:~~The Executive Director may execute contracts that are not associated with a Project, including Public Works, Alternative Public Work procedures in accordance with RCW 39.10, Goods and Services, Personal Services, Professional Services, other consulting services, and any other types of contracts or agreements so long as the total price of contracts under a single procurement does not exceed Ten Million Dollars (\$10,000,000).

5.3 Other Agreements. The Executive Director may execute any other agreements involving an exchange of goods or services with public or private entities that do not fall within any other specific delegation, and that promote operational and/or logistical efficiency, and amendments to such agreements, so long as any cumulative Port noncontingent monetary obligation under the agreement is less than or equal to Ten Million Dollars (\$10,000,000) and the General Counsel has reviewed and approved such agreement.

5.4. Non-Disclosure Agreements. The Executive Director may execute Non-Disclosure Agreements.

7.3.2- 5.5 Reimbursements to Airport Tenants. The Executive Director may approve

reimbursements to Airport tenants for work performed by such tenants to improve Airport premises so long as the total reimbursement amount is less than or equal to Ten Million Dollars (\$10,000,000). The Executive Director shall implement procedures for the reimbursement of Airport tenant improvements. Such procedures must include allowable cost categories and provide for their consistent application among all tenants. The contract or purchase order price does not exceed Three Hundred Thousand Dollars (\$300,000).

~~7.3.3. Selection, contracting, and payment for all such services shall follow all required statutory procedures as stated in SSHB 3274,⁴ or its equivalent codification in the Revised Code of Washington.~~

~~7.3.4. Authorization for Critical Work. Under circumstances not constituting a legally defined emergency, but otherwise requiring immediate action to avoid significant adverse consequences to public health, safety or property, the Commission authorizes the Executive Director to spend up to Five Hundred Thousand Dollars (\$500,000) to prevent potentially significant adverse consequences to public health, safety or property. The Executive Director shall~~

⁴Second Substitute House Bill 3274 passed the Legislature and became effective June 12, 2008, titled "An Act Relating to improving public contracting for public port districts; amending RCW 53.08.120, 39.30.020, 39.04.010, and 53.12.270; reenacting and amending RCW 39.04.155; adding new sections to chapter 53.08 RCW; adding a new chapter to Title 53 RCW; creating a new section; prescribing penalties; and providing an expiration date."

~~have authority to spend the funds if: (i) the circumstances are such that a true emergency as defined by RCW 39.04.280 is substantially likely to develop unless action is taken, or (ii) any delay in addressing the situation will likely result in significant cost increases or adverse schedule impacts to the Port, other public agencies or private property owners, and, (iii) where prior Commission authorization cannot, even on an expedited basis, be obtained. When the Executive Director authorizes Critical Work to be undertaken, he or she shall notify the Commission as soon as practicable of his or her action, the amount of money spent and obtain Commission ratification at the next public meeting. The Executive Director shall also provide notice of this Critical Work to the public. (Res. 3734, §3, 2017; Res. 3628, §1, 2009; Res. 3605, §1, 2008)~~

~~7.7.4. Auditing and Accounting Services. (Repealed by Res. 3704)~~

Section 86. UTILIZATION OF PORT CREWS

~~8.1.6.1~~ The Executive Director is authorized to use necessary Port and other workers for operations and maintenance of facilities pursuant to Commission approved labor agreements and the Pacific Coast Longshoremen's and Warehousemen's, Clerks', and Foremen's agreements (provided longshore labor may be hired through stevedoring contractors to provide services offered in Port tariffs.) The Executive Director is authorized to apply for and maintain Port membership in the Pacific Maritime Association. ~~(Res. 3734, §3, 2017; Res. 3605, §1, 2008)~~

~~8.2.6.2~~ The Executive Director shall be responsible for obtaining prior Commission approval for work projects which are new construction or major modifications of Port facilities to be carried out by Port crews when the total estimated cost is more than ~~Three Hundred Thousand~~ Ten Million Dollars (~~\$300~~10,000). ~~(Res. 3734, §3, 2017; Res. 3628, §1, 2009; Res. 3605, §1, 2008),000).~~

~~8.3.6.3~~ The Executive Director may authorize expense maintenance projects that are not new construction projects or contracts or that in any way add to the capacity or function of a facility, whether performed by Port crews or by contractors, up to a value of ~~three hundred thousand~~ Ten Million dollars (~~\$300~~10,000). ~~(Res. 3734, §3, 2017; Res. 3628, §1, 2009; Res. 3605, §1, 2008),000).~~

Section 97. LEGAL SERVICES, CLAIMS AND OTHER REPRESENTATION

~~9.1.7.1~~ Management Authority. The Executive Director ~~or~~ and the General Counsel shall be responsible for management and supervision of all legal services ~~required~~ retained by the Port, except for legal services ~~specifically under~~ directly engaged by the Commission ~~supervision~~, and for all litigation in which the Port has an interest, direct or indirect. For purposes of this section, "litigation" shall mean the assertion of any position, right or responsibility by or against the Port (or in which the Port may have an interest) which

has been filed in any court ~~of general~~ or tribunal external to the Port with jurisdiction, be it state or federal, international or any quasi-judicial, administrative or arbitration forum.

⁵~~Subsection 7.7.4 was mis-numbered as it appeared in Resolutions 3605 and 3628. It was numbered as a sub-subsection, but was intended to be Subsection 7.4. The subdivisions of the subsection were numbered 7.4.1-7.4.4, all of which were repealed by Resolution 3704.~~

jurisdiction, be it state or federal, international or any quasi-judicial or administrative forum. (~~Res. 3734, §3, 2017; Res. 3605, §1, 2008~~)

7.2 Legal Services. The Executive Director is authorized to retain, or to cause to be retained ~~throughby~~ the General Counsel, attorneys or law firms, or other appropriate legal representatives as necessary, to provide (or assist in the provision of) legal services without limitations otherwise prescribed in Sections 3 or 5 above.

7.2.1 Subject to the limitations of RCW 53.08.208, counsel may be retained whenever any ~~action, claim, or proceeding~~ litigation is instituted against any person who is or was an officer, employee, or agent of the Port arising out of the performance or failure of performance of duties for, or employment with the Port; provided that, if any such ~~action, claim, or proceeding~~ litigation includes allegations of fraud or ~~other illegal~~ criminal activity, retention of counsel shall be subject to Commission approval. ~~Retained legal counsel may act solely on behalf of the Port or jointly with other interested parties under appropriate agreements. A quarterly report of all~~ All such retentions shall be ~~provided to the Commission~~ reported annually by the General Counsel ~~to the Commission.~~

~~9.2.7.2.2~~ Payment for legal or related services generally shall be by fixed annual retainers or by reimbursement not ~~to exceed~~ established hourly rates plus expenses. Fixed annual retainers shall be set by the Executive Director, or caused to be set by the General Counsel, based on the level of services required and the current cost of legal services in this area; provided that any such annual retainer or total annual payment for services in any legal matter which is more than ~~Three Hundred Thousand~~ One Million Dollars (~~\$300~~ 1,000,000) shall be reported annually by the General Counsel to the Commission. (~~Res. 3734, §3, 2017; Res. 3628, §1, 2009; Res. 3605, §1, 2008~~)

~~9.3.7.3~~ Engagement of Experts. The Executive Director may engage, or cause to be engaged through the General Counsel, such experts as may be necessary to the orderly preparation of litigation or evaluation or support of legal matters in which the Port has a direct or indirect interest, without limitations otherwise prescribed in ~~Section 7~~ Sections 3 or 5 above. Such engagement shall be upon authorization given by the General Counsel after having been satisfied that such expenditure is necessary to the adequate evaluation, support, preparation and/or representation of the Port's position in such litigation or other legal matters ~~and shall wherever practicable include an estimate of the probable cost of such experts.~~ (~~Res. 3734, §3, 2017; Res. 3605, §1, 2008~~)

~~9.4.7.4~~ Settlement. ~~Unless otherwise specified herein, any~~ Any matter which is the subject of litigation may be compromised and settled by the Executive Director, or caused to be settled by the General Counsel, provided that the settlement amount paid by the Port (or, in the case of a claim being pursued by the Port, the amount of the claim to be waived, released or compromised by the Port) is less than or equal to ~~Three Hundred Thousand~~ One Million Dollars (~~\$300~~ 1,000,000) and that the General Counsel shall ~~certify~~ provide an opinion to the Executive Director that such compromise and settlement is justified on the basis of the following: (~~Res. 3734, §3, 2017; Res. 3628, §1, 2009; Res. 3605, §1, 2008~~)

9.4.1.7.4.1 ~~Claims filed~~ Litigation against the Port.

- (i) The likelihood that a judgment rendered in ~~the case~~ litigation would be in the amount claimed or higher than the amount claimed, or that there is reasonable cause to believe that there is considerable exposure of liability for the Port; or

- (ii) The likelihood that the expenses involved in litigation would be unnecessarily high in relation to the amount claimed, or the likely result. *(Res. 3605, §1, 2008)*

9.4.2.7.4.2 Claims filed Litigation on behalf of the Port.

- (i) That the determination to settle the claim outweighs the riskrisks of resorting to litigation; or other alternatives; or
- (ii) That the settlement of the claim would provide prompt payment to the Port and eliminate extensive delays; or
- (iii) That the proposed offer of settlement is reasonable in light of the claim asserted. *(Res. 3605, §1, 2008)*

~~9.5. Adjustment and Settlement of Claims. Except for claims which are in litigation, the Executive Director shall be responsible for, or shall cause the General Counsel to be responsible for, the observance of necessary procedures whereby the adjustment and final settlement of all claims, either against or on behalf of the Port, shall be carried out. Necessary procedures in the handling of such claims shall include the following: *(Res. 3734, §3, 2017; Res. 3605, §1, 2008)*~~

~~9.5.1. For purposes of this section~~

~~(i) 7.5 , "Claim" shall mean the assertion of any position, right or responsibility by or against the Port, but not including:~~

~~(ii)(i) Accounts receivable to the extent covered in Section 108, or~~

~~(ii) Claims asserted by or against the Port which are in litigation as that term is defined in Section 97.1. above. *(Res. 3628, §*~~

~~(iii) 7.5.1, 2009; Res. 3605, §1, 2008)~~

~~9.5.2. No claims against the Port shall be considered unless and until proper notice and credible evidence of loss or damage has been provided by the claimant to the Port. *(Res. 3605, §1, 2008)*~~

~~9.5.3. 7.5.2 Claims which in the opinion of the ~~Executive Director~~General Counsel have the potential to exceed ~~Three Hundred Thousand~~One Million Dollars (~~\$3001,000,000~~) shall be reported annually by the General Counsel to the Commission ~~as they arise. Any individual claim which exceeds Three Hundred Thousand Dollars (\$300,000) may be processed in all respects (except for final approval and payment) by the Executive Director or the General Counsel. *(Res. 3734, §3, 2017; Res. 3628, §1, 2009; Res. 3605, §1, 2008).*~~~~

~~9.5.4. Any single claim less than or equal to ~~Three Hundred Thousand~~One Million~~

Dollars (~~\$3001,000~~,000) to be paid or waived, released or compromised by the Port may be adjusted and settled ~~and paid~~ by the Executive Director, or caused to be adjusted and settled by the General Counsel provided that all of the following conditions are met: (~~Res. 3734, §3, 2017; Res. 3628, §1, 2009; Res. 3605, §1, 2008~~)

~~9.5.4.1.7.5.3.1~~ That the General Counsel shall ~~certify~~provide an opinion to the Executive Director -that payment of the claim is justified on the basis of the following:

- (i) Claims against the Port:
 - (a) ~~A substantial~~The likelihood that the Port is or could be found liable; or
 - (b) The likelihood that a judgment rendered in ~~the event of~~ litigation would be in the amount claimed, or higher than the amount claimed, or that there is reasonable cause to believe that there is considerable exposure of liability for the Port; or
 - (c) The likelihood that the expenses involved in litigation would be unnecessarily high in relation to the amount claimed, or the likely result.

(ii) Claims on behalf of the Port:

- (a) That the determination to settle the claim outweighs the risk of ~~resorting to litigation;~~ or other alternatives; or
- (b) That the settlement of the claim would provide prompt payment to the Port and eliminate extensive delays; or
- (c) The proposed offer of settlement is reasonable in light of the claim asserted. ~~(Res. 3734, §3, 2017; Res. 3605, §1, 2008)~~

~~9.5.3.2. All such claims, when paid, shall be reported to the Commission semi-annually. (Res. 3605, §1, 2008)~~

Section ~~108~~. ADJUSTMENT AND WRITE-OFF OF ACCOUNTS RECEIVABLE

~~10.1.8.1~~ The Executive Director is authorized to establish procedures to: (i) make adjustments to accounts receivable for valid operational reasons which do not constitute a gift of public funds; or (ii) to write off any uncollectible account which is less than or equal to Three Hundred Thousand Dollars (\$300,000). ~~(Res. 3734, §3, 2017; Res. 3628, §1, 2009; Res. 3605, §1, 2008)~~

~~10.2.8.2~~ Prior to adjusting or writing off of any account receivable or uncollectible debt, the Executive Director shall be satisfied that every reasonable effort has been made by the staff to resolve or accomplish the collection of the account. For those accounts that fail to make payment, the Executive Director shall authorize the General Counsel to bring action in courts of law, or if more appropriate, authorize the Chief Financial Officer, to assign the same to collection agencies in an attempt to collect such accounts. If, after attempting all normal account collection procedures, the account is still uncollectible after 180 days or more, the Executive Director shall be authorized

to provide for writing off such an account.

8.3 Any amount in an account in excess of Three Hundred Thousand Dollars (\$300,000) which is deemed to be uncollectible shall be referred to the Commission for final approval of writing off that account. (~~Res. 3734, §3, 2017; Res. 3628, §1, 2009; Res. 3605, §1, 2008~~)

~~**Section 11. INVESTMENT OF TEMPORARILY IDLE PORT FUNDS (Repealed by Res. 3704)**~~

~~**Section 12. INSURANCE PROGRAMS (Repealed by Res. 3704)**~~

~~**Section 13. TRADE DEVELOPMENT PROGRAMS (Repealed by Res. 3704)**~~

~~**Section 14. ISSUANCE OF TARIFFS (Repealed by Res. 3704)**~~

~~**Section 15. RULES AND REGULATIONS (Repealed by Res. 3704)**~~

~~**Section 16. NON-DISCRIMINATION AND EQUAL OPPORTUNITY⁶**~~

~~16.1. It is the basic policy of the Port of Seattle to provide equal opportunity to the users of all Port services and facilities and all contracting entities. Specifically, the Port will not tolerate discrimination against any persons on grounds of age, race, color, national origin, ancestry, ethnicity, religion, disability, Family Medical Leave Act (FMLA) use, pregnancy, sex, gender, sexual orientation, whistleblower status, marital status, workers' compensation use, transgender status, political beliefs, or any other protected status, as guaranteed by local, state and federal laws. The equal opportunity principles described in this policy shall apply to the Port's employees, customers, consultants, contractors, and vendors to the extent possible and as required by law. This policy is to be implemented by the Executive Director as more specifically set forth in Port policies covering affirmative action, equal employment opportunity and women, minority and disadvantaged business participation in Port contracts. (Res. 3734, §3, 2017; Res. 3628, §1, 2009; Res. 3605, §1, 2008)~~

~~**Section 17. TRAVEL OF EMPLOYEES AND OTHER AUTHORIZED REPRESENTATIVES OF THE PORT (Repealed by Res. 3704)**~~

~~**Section 18. SALE OF PERSONAL PROPERTY (Repealed by Res. 3704)**~~

~~**Section 19. WORKING FUNDS (Repealed by Res. 3704)**~~

~~Section 20~~

~~**Section 9. SALE OF PERSONAL PROPERTY**~~

~~9.1. Section 53.08.090 of the Revised Code of Washington authorizes the Commission to delegate to the Executive Director, by Commission resolution, the authority to sell and convey Port personal property up to an annual limit updated each year. State law requires that this authority be renewed from year to year by Resolution. The Executive Director or their delegate must itemize and list the property to be sold or conveyed and make written certification to the Commission that the listed property is no longer~~

needed for port district purposes prior to any such sale or conveyance. The Commission must authorize the sale of Port property over the allowed statutory amount.

9.2. In no case shall surplus personal property of the Port be sold to any Port Commissioner or Port employee or to members of their immediate families without the specific approval of the Commission.

Section 10. GENERAL INTERPRETATION

~~20.1.10.1~~ **Statutory References.** All statutory references in this Resolution shall mean the cited statute as it existed on the date of adoption of this Resolution or as such statute may be hereafter amended, succeeded, modified or legally construed from time to time.

*(Res. 3605,
§1, 2008)*

⁶ In 2012, the Commission adopted new non-discrimination language in its Resolution 3668. Repeal of the text here to conform to the principles in Res. 3668 is currently under review.

10.2 Dollar Limits. All dollar limits included in this delegation or inclusive of all charges and taxes, including sales tax.

~~20.2.10.3~~ Definitions. The Executive Director is authorized to modify, edit, add and delete definitions within this Resolution. The Commission shall be notified of any changes in writing.

~~20.2.1. "Annually Approved Capital Budget"⁷ means the list of capital projects (including small works projects) and the projected total dollar amount of upcoming budget-year spending associated with those projects which is presented to, and reviewed by, the Commission as part of the budget review process (i.e., the first year of the Capital Improvement Plan), or as subsequently amended by the Commission during the budget year. (Res. 3734, §3, 2017; Res. 3605, §1, 2008)~~

~~20.2.2. "Annual Operating Budget" means the budgeted operating and non-operating revenues and expenses reviewed and approved by the Commission as part of the budget process, or as subsequently amended by the Commission during the budget year. (Res. 3605, §1, 2008)~~

~~20.2.3. "Annually Approved Capital Improvement Plan" means the five-year projection of capital projects (including small works projects) and associated expenditures which is developed and maintained as a planning tool for Port capital investment and which is reviewed by the Commission annually as part of a Plan of Finance and budget review process, or as subsequently amended by the Commission during the budget year. (Res. 3605, §1, 2008)~~

~~20.2.4.10.3.1~~ "Goods and Services" means natural resources; equipment; materials; supplies; or other finished goods or products; utilities and utilities-related services (including services provided by public agencies); and maintenance, security and other miscellaneous services (excluding ~~professional or consultant services~~, services provided by employees covered by collective bargaining agreements to which the Port is signatory, ~~or other categories of services specifically provided for in this Resolution~~). ~~(Res. 3605, §1, 2008)~~.

10.3.2 "Interlocal Agreement" means an agreement in accordance with RCW 39.34 for joint or cooperative action between public agencies.

~~20.2.5.10.3.3~~ "Personal Services" means those services ~~within~~ as defined in RCW 53.19.010(6), as that law may in the scope of Subsection 6 of Section 6 of 2008 Laws of Washington Chapter 130 or the codification of its equivalent in the Revised Code of Washington. (Res. 3605, §1, 2008) ~~future be amended or superseded.~~

~~20.2.6.10.3.4~~ "Professional Services" means ~~(a)~~ those services within scope of Section

39.80.020(5) of the Revised Code of Washington, as the same may in the future ~~by amended or superseded or (b) professional or technical expertise provided by a consultant to accomplish a specific study, project, task, or other work statement which is reasonably required in connection with public works projects. (Res. 3605, §1, 2008)~~ be amended or superseded.

⁷Resolution 3605 included sub-subsections 20.2.1 and 20.2.2, definitions of "Within Authorized Budget Limits." Both of these subdivisions were repealed by Resolution 3628, which then renumbered the remaining definitions.

10.3.5 "Project" means requirements undertaken to provide a product or service. Projects do not, however, include regular, recurring, or routine work associated with the day-to-day management and normal operations of the Port.

~~20.2.7.~~10.3.6 "Public Work" means construction, alteration, repair and improvement meeting the definition set forth in Section 39.04.010(4) of the Revised Code of Washington, as that law may in the future be amended or superseded. (Res. 3605, §1, 2008)

10.3.7 "Purchased Services" means those services within—as defined in RCW 53.19.010(8), as that law may in the scope of Subsection 8 of Section 6 of 2008 Laws of Washington Chapter 130, future be amended or the codification of its equivalent insuperseded.

~~20.2.8.~~"RCW" means the Revised Code of Washington. (Res. 3605, §1, 2008)

~~20.2.9. "Temporarily Idle Funds" shall mean those funds not required for expenditure within twelve months and are not part of a contingency or strategic fund reserve. (Res. 3605, §1, 2008)~~

~~20.2.10. "Design-Bid-Build" is the traditional process of public works contracting, as defined in general statute RCW 39.04.10. The Design-Bid-Build contracting method proceeds in three phases. First, the Commission authorizes the owner to use in-house or consultant staff to prepare plans and specifications for the work, Next, the Commission authorizes the documents to be advertised and potential construction contractors submit bids for the work. Finally, through either Executive Director action or Commission approval, the owner contracts with the responsible bidder submitting the lowest responsive bid, who performs the work described in the documents. (Res. 3734, §3, 2017; Res. 3605, §1, 2008)~~

~~20.2.11. "Design-Build" is an alternate contracting process, as defined in RCW 39.10.300. The Port must be either a certified body authorized to use the design build process or obtain project approval in accordance with RCW 39.10.280. The Design-Build contracting method proceeds in three phases. First, the Commission authorizes the design funds and permission to use the design build contracting method. Second the Commission authorizes the advertising of the design build contract. Third, after the best proposal is selected, authorization of final design and construction funding and award of the design build contract takes place in accordance with Section 4.2.3.2. (Res. 3605, §1, 2008)~~

~~20.2.12 "Best Bid" is a contracting procedure described in RCW 53.08.130 that allows awarding a public works contract to "the best bidder submitting his or her own plans and specifications." This situation may occur when the Port has provided a complete design but one or more bidders has another idea, or the Port may solicit original ideas from all bidders. In either case, the award selection is made on a combination of cost and proposal known as best value. Commission authorization is required for best bid procurement, either prior to advertising, if best bid~~

~~proposals are requested, or prior to award, if an unsolicited best bid proposal is selected. (Res. 3628, §1, 2009; Res. 3605, §1, 2008)~~

~~20.2.13. "General Contractor/Construction Manager" (GC/CM) is an alternate contracting method, as defined in RCW 39.10.340. The Port must be either a~~

~~10.3.8 certified body authorized to use GC/CM process or obtain project approval in accordance with RCW 39.10.280. The GC/CM method proceeds in three phases. First, the Commission authorizes the design funds and permission to use the GC/CM contracting method. Second the Commission authorizes advertising the GC/CM procurement, selection of the GC/CM contractor, and authorizes the Port to enter into a contract for preconstruction services. Third, after the maximum allowable construction cost (MACC) is negotiated, the Commission authorizes construction funding and awarding of the construction work. (Res. 3605, §1, 2008)~~