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**PORT OF LONGVIEW COMMISSION
RESOLUTION NO. 2022-07**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE PORT OF
LONGVIEW DELEGATING POWERS AND DUTIES TO THE CHIEF
EXECUTIVE OFFICER AND DESIGNEES, ADDRESSING OTHER
OPERATIONAL MATTERS, AND RESCINDING RESOLUTION 2020-8**

WHEREAS, RCW 39.04.155 and other laws concerning public works projects requires the Port of Longview ("Port") to adopt a resolution in order to implement a small works roster; and

WHEREAS, RCW 53.08.090(1) authorizes the Port's Board of Commissioners ("Commission") to delegate to the Chief Executive Officer the authority to sell and convey Port personal property; and

WHEREAS, RCW 53.12.270(1) authorizes the Commission to delegate administrative powers and duties to the Chief Executive Officer; and

WHEREAS, RCW 53.12.270(2) further requires the Commission to adopt policies related to when competitive bidding requirements for public works contracts may be waived; and

WHEREAS, RCW 53.19.090(1) requires the Commission to adopt policies related to personal service contracts; and

WHEREAS, in order to comply with federal funding requirements, the Port is required to adopt procurement standards; and

WHEREAS, the Commission has in the past adopted policy directives delegating powers and duties to the Chief Executive Officer and designees for the purpose of expeditious administration of the Port; and

WHEREAS, the Commission has from time to time found it necessary to amend, revise or consolidate such prior directives due to changes in law or operations of the Port; and

WHEREAS, the Commission now wishes to provide a master policy directive on the delegated powers and duties of the Port's Chief Executive Officer and designees, and to repeal all prior resolutions dealing with the same subject matter, and to set forth other operational matters for the efficient conduct of Port business; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Port of Longview as follows:

Section 1. This master policy directive is adopted for the purpose of establishing the delegated powers and duties of the Port's Chief Executive Officer and designees who are responsible for Port operations. It shall remain in effect until such time that it is amended in whole or part, or otherwise rescinded by the Commission.

Section 2. Resolution 2020-8 and all other resolutions approved by the Commission pertaining to the subject matters contained in this resolution are hereby rescinded.

Section 3. The Chief Executive Officer will keep the Commission notified of all significant changes to Port administrative policies and procedures.

Section 4. This master policy directive on the delegated administrative powers and duties of the Port's Chief Executive Officer is hereby adopted.

I. GENERAL AUTHORITY

A. The Chief Executive Officer may delegate to Port personnel such administrative authority or reporting requirements established by this resolution, as is necessary and advisable in the efficient exercise of the Chief Executive Officer's powers and duties.

B. This policy shall not be interpreted to limit the duties or responsibilities of the Chief Executive Officer as those duties may be determined from time-to-time by the Commission.

C. To delegate authority to Port personnel, the Chief Executive Officer shall promulgate policies and procedures, budgetary directives, and other such staff directives as necessary that provide a clear chain of authority and responsibility to the Chief Executive Officer's designees.

D. The Chief Executive Officer shall promptly act on advancing all directives or initiatives made by the Commission acting as a body of the whole through a duly approved motion or resolution.

E. The Chief Executive Officer is responsible for Port administration and operations. The phrase "Port administration and operations," as used herein, means the regular day-to-day business of the Port, including, but not limited to, operating, maintaining, and administering all of its properties, leasehold properties, facilities services and programs; including the implementation of construction work, alterations, repairs, maintenance, and improvements of the Port's real estate and physical facilities; and, the necessary planning incidental thereto; the conduct of financial accounting and consultation with Legal Counsel (appointed by the Commission) on matters as they relate to the Port's operation; the administration of all other operations that include personnel administration; the execution of contracts within delegated authority; the administration of contracts including insurance renewals and equipment rentals; publish legal notices; and, all other pertinent functions.

F. The Chief Executive Officer shall inform the Commission regarding significant information, incidents, and business transactions by methods agreeable to the Commission. The Chief Executive Officer shall report to the Commission those significant actions taken within this delegation, and shall promptly and regularly report to the Commission on all expenditures that may exceed amounts allocated in the Commissions' approved budget for such planned expenditures. The Chief Executive Officer is the managing official of the Port, appointed by the Commission, and holds office as their representative. Nothing herein should be construed in any way as relieving the duties and the responsibilities of the Commission.

II. POLICY GOVERNING REAL PROPERTY AND THE PORT TERMINALS

A. Lease Arrangements. All real property when available for leasing shall, except as otherwise provided herein below, be leased only under a written lease approved by the Port's Legal Counsel, executed by the Commission, accompanied by a lease bond or other form of security in accordance with law, and managed by the Port's senior executive team member responsible for Port real estate leases. However, the Chief Executive Officer may execute short term leases, Exclusivity Agreements (EAs), and Non-Disclosure Agreements (NDAs), and extensions thereof (i.e., terms 12 months or less, with the exception of NDAs, which the Chief Executive Officer may execute with a term of up to 3 years). The Chief Executive Office's authority with respect to short term leases, or their extensions, are subject to all of the following conditions:

1. The lease surety must be in place consistent with statutory requirements and the Port's standard form of lease, with the exception of State and Federal leases that require the use of the tenant's lease form as long as the content of the lease form does not materially change the Port's intent in its standard lease form.
2. The arrangements for short term occupancy shall be evidenced by the Port's standard form of lease (except that any clearly inapplicable provision or provisions inconsistent with the policy herein set out shall be deleted from the standard form).
3. The amount of the rental shall be in accordance with any requirements adopted by the Commission for similar Port property of the same or similar class and type and devoted to similar uses.
4. The use to which the property may be put by the tenant shall be expressly stated and shall be in accordance with any standards adopted by the Commission for the same or similar Port property or properties.
5. The lease may not be renewed or otherwise extended beyond a total of five consecutive one-year terms without Commission approval.

B. Sublease Procedures. Leases, concession agreements, operating agreements, and related contracts between the Port and its tenants, concessionaires, and other parties shall include restrictions on the subleasing and require at a minimum the prior written consent of the Port to such subleases. Subject to the provisions of the lease or agreement, the Chief Executive Officer

is authorized to grant consents to subleases, which for the purposes hereof shall include sub-operating agreements and sub-concession agreements.

C. Other Real Property Documents. The Chief Executive Officer is authorized to execute the following property instruments, subject to the terms specified herein:

1. Temporary and permanent easements for purposes of utility installments only.
2. Aquatic land leases with the Washington State Department of Natural Resources to accommodate leasehold property leases consistent with the Port Management Agreement.
3. Binding site plans and short plats consistent with Port master plans in order to activate leasehold interests.
4. Changes in the name of the lessee to a lease if all other conditions, including primary ownership, remain the same.
5. Lease assignments for purposes of transferring the lease or collateral to a wholly owned subsidiary of lessee or lessee's parent company, and lease assignments for purposes of a single condominium unit conveyance (change of ownership) where there is an established condominium association as the lessee.
6. Assignments of other agreements where the agreement has been approved by the Commission and the assignment does not allow the Port to object to the assignment.
7. Response to estoppels and attornments.
8. Revocable licenses of Port property for a term of 12 months or less.

D. Lease Renewals. The Chief Executive Officer is authorized to sign lease option renewals for terms less than five years provided that such option renewals are included in the basic lease approved by the Commission; all other substantive terms of the lease remain unchanged; rent adjustments provided for in the basic lease are made; and, the basic lease is in good standing.

E. Lease Enforcement and Lease Terminations. The Chief Executive Officer is authorized to enforce all terms and conditions of Port leases, issue all appropriate notices of default and/or notices of termination with regard to Port leases, and terminate any lease as allowed under the terms and conditions of the lease. Upon termination, the Chief Executive Officer is authorized to take all steps necessary to retake possession of the leasehold and recover for the Port all sums due to the Port pursuant to the lease. The Chief Executive Officer shall report to the Commission during a regularly scheduled meeting on all lessees that are in default, issued default notices, or issued termination notices.

F. Realtors Compensation Program. The Port does not currently have a Realtors Compensation Program.

G. Lay Berth Agreements. The Chief Executive Officer is authorized to execute Lay Berth Agreements for a term not to exceed one year to allow a vessel to berth on a daily or monthly basis at the Port's shipping terminal. The Chief Executive Officer shall report to the Commission, in accordance with Section 1(F), actions taken for agreements longer than two consecutive months in duration.

H. Cargo Throughput Agreements. The Chief Executive Officer is authorized to negotiate terms, conditions, and charges for services related to moving cargo across the Longview Shipping Terminal which deviate from the published Tariff when (i) in the course of business it is necessary to deviate from the Tariff to capture new revenue or retain existing business relationships, and (ii) such agreements will not require the expenditure of any unbudgeted capital or operating funds, and (iii) the term of the agreements do not exceed one year. The Chief Executive Officer shall report to the Commission, in accordance with Section 1(F), actions taken with respect to these agreements.

I. Tariff Amendments. The Chief Executive Officer is authorized to issue tariffs and tariff amendments as necessary, provided the Port Commission shall be provided notice of such adjustments at a regularly scheduled meeting prior to implementation.

III. GRANT FUNDING

A. The Chief Executive Officer is authorized to take all necessary actions on behalf of the Commission to prepare and submit applications for grant funding. The Chief Executive Officer shall advise the Commission of the amount and purpose of grant applications.

B. Acceptance of Grants: The Chief Executive Officer shall consult with the Commission, as outlined in Resolution 2022-06, Adopting Rules Governing the Transaction of Board Business, prior to accepting or appropriating any grant award to the Port and shall prepare a budget amendment for Commission approval to accept and appropriate any grant loan funding or expenditure which was not specifically identified in the approved annual budget.

C. Procurement Standards: The Chief Executive Officer shall be responsible for ensuring that all purchases and/or contracts utilizing grant funds will comply, at a minimum, with the policies and procedures contained herein as well as the funding source's administrative and procurement requirements where no conflicts exist with local, state and federal laws or procedures; and where federal funds are awarded, all purchases and/or contracts shall comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, published under Title 2 of the Code of Federal Regulations (2 CFR 200) and other federal regulations as required.

IV. PUBLIC WORKS

A. Public Work Contract Awards. The Chief Executive Officer shall have the responsibility for following all required statutory procedures in connection with all public work contracts. The Chief Executive Officer is authorized to carry out all procedures required by

applicable statutes preliminary to the acts required to be performed by the Commission at an open meeting. The Chief Executive Officer or their designee(s) in accordance with the policies and procedures contained herein may, without prior Commission approval, execute on behalf of the Port, public work contracts in the amount of \$300,000 or less so long as the expenditure is within the limits of overall annual budget authority. In addition, the Chief Executive Officer may, without prior Commission approval, execute on behalf of the Port, public work contracts for public work identified in a specific budgetary line item and where the contract price and all other charges do not exceed the amount authorized in that specific budgetary line item by ten percent (10%), but in no case in excess of \$50,000.

B. Reporting Requirements. Pursuant to RCW 53.08.440, all public works contracts shall be listed in the Port's contract database and posted to the Port's website.

V. POLICY GOVERNING SMALL WORKS ROSTER

A. Where the estimated price of a public work does not exceed the current statutory limit in RCW 53.08.120 and the contract award otherwise conforms to the requirements of RCW 53.08.120, the Chief Executive Officer is authorized to carry out, without prior referral to the Port Commission, all actions required by applicable statutes or necessary contract administration under RCW 39.04.155 (small works procedures), provided that such actions are within the authority established by the Port's current board approved budget.

B. The Port need not comply with formal sealed bidding procedures for the construction, building, renovation, remodeling, alteration, repair, or improvement of real property where the estimated cost does not exceed the amount allowed for in RCW 39.04.155, which includes the cost of labor, material, equipment and sales and/or use taxes as applicable. Instead, the Port may use the Small Works Roster procedures for public works projects as set forth herein. The breaking of any project into units or accomplishing any projects by phases is prohibited if it is done for the purpose of avoiding the maximum dollar amount of a contract that may be using the Small Works Roster process. Notwithstanding the foregoing authorization, this resolution shall not supersede provisions of the Chief Executive authority as otherwise allowed for in this resolution.

C. Publication.

1. At least once a year, the Port (or the Municipal Research and Services Center ("MRSC") on behalf of the Port in the event the Port is contracting for participation in the shared Small Works Roster program) shall publish in a newspaper of general circulation within the jurisdiction a notice of the existence of the roster or rosters and solicit the names of contractors for such roster(s). Responsible contractors shall be added to appropriate roster(s) at any time that they submit a written request and necessary records. The Port may require master contracts to be signed that become effective when a specific award is made using a Small Works Roster. An Interlocal agreement or contract between the Port and other local governments establishing a Small Works Roster(s) to be used by the

parties to the agreement or contract must clearly identify the lead entity that is responsible for implementing the Small Works Roster provisions.

D. Telephone or Written Quotations.

- I. The Port shall obtain telephone, written or electronic quotations for public works contracts from contractors on the appropriate Small Works Roster to assure that a competitive price is established and to award contracts to a contractor who meets the mandatory bidder responsibility criteria in RCW 39.04.350(1), has signed the Certification of Compliance with Wage Payment Statutes and any complies with supplementary bidder criteria the Port establishes under RCW 39.04.350(2) and RCW 39.04.350(3).
 - a. A contract awarded from a Small Works Roster need not be advertised. Invitations for quotations shall include an estimate of the scope and nature of the work to be performed as well as materials and equipment to be furnished. However, detailed plans and specifications need not be included in the invitation.
 - b. Quotations may be invited from all appropriate contractors on the appropriate Small Works Roster. As an alternative, quotations may be invited from at least five contractors on the appropriate Small Works Roster who have indicated the capability of performing the kind of work being contracted for, in a manner that will equitably distribute the opportunity among the contractors on the appropriate roster. "Equitably distribute" means that the Port may not favor certain contractors on the appropriate Small Works Roster over other contractors on the appropriate Small Works Roster who perform similar services.
 - c. If the estimated cost of the work is from two hundred and fifty thousand dollars (\$250,000.00) to three hundred thousand dollars (\$300,000.00), the Port may choose to solicit bids from less than all the appropriate contractors on the appropriate Small Works Roster but must notify the remaining contractors on the appropriate Small Works Roster that quotations on the work are being sought. The Port has the sole option of determining whether this notice to the remaining contractors is made by:
 - (i) Publishing a notice in a legal newspaper of general circulation, as that phrase is defined in RCW 65.16.020, in the area where the work is to be done;
 - (ii) mailing a notice to these contractors; or
 - (iii) sending a notice to these contractors by facsimile or email.

- d. At the time bids are solicited, the Port representative shall not inform a contractor of the terms or amount of any other contractor's bid for the same project.
- e. A written record shall be made by the Port representative of each contractor's bid on the project and of any conditions imposed on the bid. Promptly after an award is made, the bid quotations obtained shall be recorded, open to public inspection, and available by telephone inquiry,
- f. A list of contracts awarded under the Small Works Roster process is to be made available on the Port's website. The list shall contain the names of the contractor awarded the contract, the amount of the contract, a brief description of the type of work performed or items purchased under the contract and the date it was awarded. The list shall also state where the bid quotations for these contractors are available for public inspection.

E. Limited Public Works Process.

- 1. Pursuant to RCW 39.04.155, the Port hereby acknowledges it is reserving the right to utilize the Limited Public Works Process in those situations where the Limited Public Work Process is deemed appropriate and lawful.

F. Determining Lowest Responsible Bidder.

- 1. The Chief Executive Officer or their designee, for public works contract bids within the delegated authority level, or the Port Commission, for public works contract bids that are in excess of the Chief Executive Officer's delegated authority level, shall award the contract for the public works project to the lowest responsive, responsible bidder who meets the criteria in RCW 39.04.350 and who meets any supplementary bidder responsibility criteria established by the Port for the particular public works project; provided, however, whenever there is a reason to believe that the lowest acceptable bid is not responsible or in the best interest of the Port, all bids may be rejected and the Chief Executive Officer or Port Commission may call for new bids. In addition to price, the Port Commission or the Chief Executive Officer shall take into account the following when determining the responsibility of a bidder or the responsiveness of a bid:
 - a. The ability, capacity and skill of the bidder to perform the contract;
 - b. Whether the bidder can perform the contract within the time specified by the Port;
 - c. The quality and existing compliance by the bidder with laws relating to the contract or services;

- d. Any conditions the bidder may have placed on their bid.

G. Award.

1. For public works projects within the delegated authority as described in this resolution, the Chief Executive Officer or their designee shall have the authority to award public works contracts without Port Commission approval. For public works projects that exceed the Chief Executive Officer's delegated authority, the Chief Executive Officer or their designee shall present all quotations/bids and recommendation for award to the lowest responsive, responsible bidder to the Port Commission.

VI. POLICY GOVERNING CHANGE ORDERS ON PUBLIC AND SMALL WORKS CONTRACTS

A. Change Orders. In the instances where public works contracts have been awarded and the work is in progress, and individual changes in plans and/or specifications are necessitated in order to properly accomplish the work, the Chief Executive Officer is authorized, without prior Commission approval, to execute individual change orders to the contract if the following conditions are met:

1. The estimated cost of the cumulative changes in plans and/or specifications and all other charges are within the limits of overall annual budget authority, or, in cases requiring Commission approval for public works contracts, ten percent (10%) of the authorized amount.
2. The proposed changes are within the original scope of work.

In all other cases, the Chief Executive Officer shall bring all proposed change orders before the Commission for consideration and action before the obligation of any funds.

VII. POLICY GOVERNING UTILIZATION OF PORT CREWS

A. Consistent with RCW 39.04.020, RCW 53.08.120 and RCW 53.08.135, the Chief Executive Officer is authorized to use Port labor for the operations and maintenance of Port facilities, pursuant to Port Commission-approved labor agreements, if applicable.

B. When major maintenance or capital improvements of Port facilities are to be carried out by Port labor, and when the total estimated cost exceeds Three Hundred Thousand Dollars (\$300,000), the Chief Executive Officer shall bring such public works projects to the Commission for consideration and approval prior to the commencement of any work.

C. For projects where the estimated cost is less than \$300,000, the Chief Executive Officer may authorize the use of Port crew labor, without prior approval from the Commission, provided the funds necessary to complete the project are identified in the Port's current Board approved budget.

VIII. POLICY GOVERNING CONTRACTS FOR ACQUISITION OF UTILITIES, MATERIALS, EQUIPMENT, SUPPLIES, AND PURCHASED SERVICES

A. Budgeted Acquisitions. In accordance with applicable competitive bidding requirements, the Chief Executive Officer or their designee(s) in accordance with the policies and procedures contained herein may, without prior Commission approval, execute on behalf of the Port, contracts for utilities, materials, equipment, supplies and purchased services for \$100,000.00 or less so long as the expenditure is within the limits of overall annual budget authority. In addition, the Chief Executive Officer may, without prior Commission approval, execute on behalf of the Port, contracts, and changes to contracts identified within a specific budgetary line item if the price does not exceed the amount authorized in that specific budgetary line item by ten percent (10%), but in no case in excess of \$50,000.

1. Procurement of Used Equipment and Vehicles. When the procurement of previously used equipment and vehicles are deemed to be necessary or advantageous, best efforts should be applied to purchase the equipment or vehicle that provides the best value for the Port. In the course of purchasing used equipment and vehicles, Staff shall use a Justification Form to document steps taken to ensure the desired equipment or vehicle is the best value for the Port. The Commission may approve a not to exceed price of purchase prior to identifying a specific piece of used equipment or vehicle that would allow Staff to proceed quickly with a purchase when such equipment or vehicle is found.

IX. POLICY GOVERNING WAIVER OF COMPETITIVE BIDDING REQUIREMENTS

A. Sole Source Contracts.

1. The Chief Executive Officer has the authority to waive competitive bidding requirements where one or more of the below conditions are met and the contract value is less than \$50,000:
 - a. The item to be acquired is available from only one manufacturer, supplier, or vendor;
 - b. The service to be provided is available from only one source;
 - c. The only source for the service or product is proprietary in nature;
 - d. There is only one source for the service or product that is compatible with existing Port infrastructure, or required for inter-operability and changing Port infrastructure would be at a significant cost;
 - e. Only one utility supplier or patented product can adequately meet the essential needs of the Port;

- f. Standardization or interchangeability of parts or another manufacturer's parts will not perform with the existing equipment or will void the manufacturer's warranty (provided there is sufficient time remaining on the warranty).
 - g. 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.
2. Documentation supporting one or more of the above circumstances shall be maintained in the Port's project procurement file for the contract in question.

B. Purchases Involving Special Facilities or Market Conditions.

1. The Chief Executive Officer has the authority to waive competitive bidding requirements where one or more of the below conditions are met and the contract value is less than \$100,000:
- a. Contractor or vendor is temporarily in a position to give the Port a price significantly below market price; or
 - b. Product that normally has a long manufacturing lead time can be delivered in a significantly shorter period of time, and the Port will benefit from the expedited delivery or has an immediate need for the item; or
 - c. Unforeseen circumstances that arise beyond the control of the Port that require immediate action to maintain proper performance of essential functions; or
 - d. Purchases of insurance or bonds.
2. Documentation supporting one or more of the above circumstances shall be maintained in the Port's project procurement file for the contract in question.

C. When Commission Approval Required. The Commission retains sole authority to authorize all other sole source contracts and/or other purchases and procurements relating to special facilities or market conditions in excess of the limits contained within this section. In such instances, the Chief Executive Officer shall brief the Commission on all such contracts, make such contracts available for public inspection prior to their proposed commencement date, and provide the Commission with justification for the contract and evidence that the Port attempted to identify other potential consultants/providers. The Chief Executive Officer shall ensure that costs, fees or rates negotiated in such contracts are reasonable.

D. Emergency Contracts. When an emergency, as defined in RCW 39.04.280(3), shall require the immediate acquisition of materials, equipment, supplies, and/or services, the

Chief Executive Officer is authorized to make a written finding of the existence of such emergency and execute any contract for acquisition of materials, equipment, supplies, and services necessary to promptly respond to the existing emergency, provided that the Chief Executive Officer shall, at the first Commission meeting following the Chief Executive Officer's finding of the existence of an emergency, request Port Commission ratification of the finding of an emergency and any contract awarded or executed pursuant to this authority. From the inception of any event deemed or declared an emergency the Chief Executive Officer shall advise each Commissioner of the status of the emergency and the progress of any such contracts executed to remedy the same. Emergency acquisition contracts executed pursuant to the authority herein shall contain a clause that states that the contract is subject to ratification by the Commission and that if ratification does not follow, the contract shall terminate, and the Contractor shall be compensated for work and materials used up to the date of termination.

X. POLICY GOVERNING PROTEST PROCEDURES

A. Who May Protest. The term "Bidder" excludes subcontractors, suppliers or any person contracting with or intending to contract with an actual bidder, and includes any actual bidder or prospective bidder who may protest based on specifications. Protests following a proposal or bid submittal are limited to any actual Bidders.

B. Form of Protest. In order to be considered, a protest shall be in writing, addressed to the Port's Purchasing Department, and include:

1. The name, address, and phone number of the Bidder protesting, or the authorized representative of the Bidder; and
2. The solicitation number and title under which the protest is submitted; and
3. A detailed description of the specific grounds for protest and any supporting documentation. It is the responsibility of the protesting Bidder to supplement its protest with any subsequently discovered information prior to the procurement coordinator's decision; and
4. The specific ruling or relief requested; and
5. Evidence that all persons with a financial interest in the procurement have been given notice of the protest or if such persons are unknown, a statement to that effect; and
6. Contain the following statement signed by a responsible party of the protester, "I declare under penalty of law for perjury or falsification that the information contained in the protest is true and correct to my personal knowledge, that this protest is filed in good faith and without any intent of delaying the procurement, and that I reasonably believe the protest to be meritorious." Such a statement shall be subscribed and sworn before a notary public. A protestor must strictly comply with this requirement.

C. Delivery Method. Delivery of protests shall be made during regular Port business hours in a manner requiring a receipt signed by a Port staff member such as United States Postal Service certified first class mail with return receipt request, or commercial document courier who obtains a receipt upon delivery. Electronic submission of protests will not be considered.

D. Timing of Protest. Protests based on specifications or other items in the solicitation documents which are apparent on the face of said document must be received by the Port no later than seven calendar days prior to the date established for submittal of proposals or bids. Protests based on other circumstance must be received by the Port within two calendar days after the protesting Bidder knows or should have known of the facts and circumstance upon which the protest is based. In no event shall a protest be considered if all proposals or bids are rejected or after award of the contract. A calendar day means a working business day and does not include weekends or government recognized holidays.

E. Determination of Protest. When the procurement is to be made or awarded by the Commission, the Commission shall decide the protest. When the procurement is to be made or awarded without Commission action, the Chief Executive Officer or their designee shall decide the protest and may determine, in their sole discretion, that a meeting or conference with the protestor would materially assist them in making the decision. In both cases the decision shall be final and binding.

F. Remedies. A decision on the protest may include, but is not limited to, upholding or denying, in a whole or in part. Remedies may include rejection of one or more proposals or bids, a call for new proposals or bids, acceptance of the proposals or bids in the event the protest is denied, and such other relief as may be appropriate. No protester shall be entitled to damages of any kind whatsoever.

G. Strict Compliance. Strict compliance with these protest procedures is essential in furtherance of the public interest. Any aggrieved party that fails to comply strictly with these protest procedures is deemed, by such failure, to have waived and relinquished forever any right or claim with respect to alleged irregularities in connection with the solicitation or award of the contract. No person or party may pursue any judicial or administrative proceedings challenging the solicitation or award of the contract to be awarded by a solicitation, without first exhausting the above-specified procedures.

H. Compliance with RCW 39.04.105 Related to Public Works. In addition to the above protest procedures, the Port shall comply with the requirements of RCW 39.04.105 related to written protests for public works projects.

XI. POLICY GOVERNING CONSULTANT ROSTER PROCEDURES

A. Consulting services are professional services that have a primarily intellectual output or product and include Architectural and Engineering services or Professional Services as defined in RCW 39.80.020 and Personal Service as defined in RCW 53.19.010.

B. Publication.

1. At least once a year, the Port (or MRSC on behalf of the Port in the event the Port is contracting for participating in the shared Consultant Roster program) shall publish in a newspaper of general circulation within the jurisdiction, a notice of the existence of the Consulting Services Roster(s) and solicit statements of qualifications from firms providing Consulting Services. Such advertisements will include information on how to find the address and telephone number of a representative of the Port who can provide further details as to the Port's projected needs for consulting services. Firms or persons providing consulting services shall be added to the appropriate roster or rosters at any time that they submit a written request and necessary records. The Port may require master contracts to be signed that become effective when a specific award is made using a Consulting Services roster.

C. Consultant Roster.

1. The Consultant Roster shall distinguish between Architectural and Engineering services or Professional Services and Personal Services and will announce generally to the public the Port's projected requirements for any category or type of professional or other Consulting Services. The Port reserves the right to publish an announcement on each occasion when consulting services are required by the agency. The Port may also use paper and/or other electronic rosters that may be kept on file by Port departments.

XII. POLICY GOVERNING RETENTION OF ARCHITECTURAL AND ENGINEERING SERVICES AND PERSONAL SERVICES

A. Procedure. The Chief Executive Officer shall be responsible for the Port's compliance with the policy governing arrangements for Personal Services under chapter 53.19 RCW, and the initiation of appropriate procedures to obtain Architectural and Engineering Services or Professional Services under chapter 39.80 RCW where deemed necessary in carrying out Port operations. Procedures for the day-to-day management of Personal Services contracts shall be developed by the Chief Executive Officer based on the guidelines provided by the MRSC and the Washington Public Ports Association ("WPPA").

B. Chief Executive Officer's Authority. When necessary in the conduct of Port operations, the Chief Executive Officer or their designee(s) in accordance with the policies and procedures contained herein may, without prior Commission approval, execute on behalf of the Port, contracts for Architectural and Engineering Services or Professional Services and Personal Services for \$100,000 or less so long as the expenditure is within the limits of overall annual budget authority. In addition, the Chief Executive Officer may, without prior Commission approval, execute on behalf of the Port contracts, and changes to contracts identified within a specific budgetary line item if the price does not exceed the amount authorized in that specific budgetary line item by ten percent (10%), but in no case in excess of \$50,000. Pursuant to

chapter 53.19 RCW, substantial changes in the scope of work specified in a Personal Service contract, or which are substantial additions to the scope of work specified in the formal solicitation document, shall be submitted to the Commission for a determination as to whether the change warrants the work to be awarded as a new contract, and an amendment or amendments to a Personal Service contract; if the value of the amendment or amendments, whether singly or cumulatively, exceeds fifty percent of the value of the original contract shall be filed with the Commission and made available for public inspection prior to the proposed starting date of services under the amendments.

C. Definitions. As defined by RCW 53.19.010, the Personal Service policy and procedures shall use the terms defined below:

1. Competitive Solicitation. Documented formal solicitation process providing an equal and open opportunity to qualified parties and culminating in a selection based on criteria.
 - a. Criteria other than price may be the primary basis for consideration.
 - b. Criteria may include, but is not limited to, such factors as the consultant's:
 - (i) fees or costs
 - (ii) ability
 - (iii) capacity
 - (iv) experience
 - (v) reputation
 - (vi) responsiveness to time limitations
 - (vii) responsiveness to solicitation requirements
 - (viii) quality of previous performance; and
 - (ix) compliance with status and rules relating to contracts or services.
2. Consultant. An independent individual or firm contracting with the Port to perform a service or render an opinion or recommendation according to the consultant's methods and without being subject to the control of the Port except as to the result of work.
3. Evidence of Competition. Documentation demonstrating responses were solicited from multiple firms in selecting a consultant.

4. Personal Services. Professional or technical expertise provided by a consultant to accomplish a specific study, project, task or other work statement, which may not be reasonably required in connection with a public works project meeting the definition in RCW 39.04.010(4). It does not include purchased services as hereinafter defined or professional services procured using the competitive selection requirements in chapter 39.80 RCW.
5. Purchased Services. Services provided by a vendor to accomplish routine, continuing, and necessary functions. "Purchased services" includes, but is not limited to, services for equipment maintenance and repair; operation of a physical plant; security; computer hardware and software maintenance; data entry; key punch services; and computer time-sharing, contract programming, and analysis.
6. Personal Services Contract. An agreement or any amendment thereto, with a consultant for the rendering of Personal Services to the Port.
7. Sole Source. A consultant providing professional or technical expertise of such a unique nature that the consultant is clearly and justifiably the only practicable source to provide the service. The justification shall be based on the uniqueness of the service, sole availability at the location required or warranty or defect correction service obligations of the consultant.
8. Filed with the Commission. Submitted to the Port Commission via Consent Agenda.

D. Solicitation Requirements. Selection of a consultant, either competitive or non-competitive, may use criteria other than price. Staff may elect to use a Formal Solicitation process for any value when it is determined to be in the best interest of the Port.

1. Personal Services Solicitation Requirements.
 - a. \$0-\$49,999—Competitive solicitation process is not required by statute.
 - b. \$50,000-\$199,999—Informal competitive solicitation process is required. Solicit responses from multiple firms off the consultant roster and provide documentation to the file showing evidence of competition.
 - c. \$200,000 and over—Formal competitive solicitation process is required. Advertise in the newspaper and provide documentation to the file showing evidence of competition.
2. Professional Services Solicitation Requirements. Competition is required for all professional services pursuant to chapter 39.80 RCW (i.e.,

architectural, engineering, landscape architects, and land surveyors) as listed below:

- a. \$0-\$49,999—Minimal competitive process is required. Review qualifications and select firm off the consultant roster.
- b. \$50,000-\$199,999—Informal competitive solicitation process is required. Solicit responses from multiple firms off the consultant roster and provide documentation to the file showing evidence of competition.
- c. \$200,000 and over—Formal competitive solicitation process is required. Advertise in the newspaper and provide documentation to the file showing evidence of competition.

E. Personal Services Exempted From Competitive Solicitation Requirements.

Pursuant to the provisions of RCW 53.19.020(5), the Commission declares the following classes of Personal Services contracts exempt from competitive solicitation requirements when the Chief Executive Officer files with the Commission all Personal Services contracts executed under these exemptions that exceed fifty thousand dollars (\$50,000.00) and staff determines that a competitive solicitation process is not appropriate or cost-effective, including: attorneys, expert witnesses, trade representatives, lobbyists, executive search firms, bond underwriters, bond financial advisors, and insurance brokers.

F. Reporting Requirements. Pursuant to RCW 53.08.440, all Personal Services contracts will be listed in the Port's contract database and posted to the Port's website.

XIII. POLICY GOVERNING TRAVEL OF PORT EMPLOYEES AND OTHER AUTHORIZED REPRESENTATIVES OF THE PORT

A. Chief Executive Officer's Authority. The Chief Executive Officer is authorized to approve requests for travel within the United States and Canada made by employees and/or other authorized representatives of the Port in order to effectuate necessary Port operations, in conformity with the travel policy adopted by the Commission, unless approval has already been authorized as a line item in the adopted budget.

XIV. POLICY GOVERNING STAFF AND EMPLOYEE ADMINISTRATION

A. Chief Executive Officer's Authority Generally. The Chief Executive Officer shall have the authority to manage the administration of Port operations specific to all personnel matters for Port employees and staff, which includes approving the retention or termination of all employees with the exception of the Port Treasurer pursuant to RCW 53.36.010. The Chief Executive Officer has the authority to hire an employee and create a job description for a new position, if it has no impact to the adopted budget.

B. In advance of each budget cycle, the Chief Executive Officer shall submit in writing to the Commission a proposed pay scale for the upcoming fiscal year, with an explanation of any budget implications to be considered, along with a summary of the procedure

and timeline for conducting staff performance evaluations, with a summary of any proposed merit or incentive pay programs being proposed, such that the Commission is afforded sufficient time to review and approve all such plans in advance of the overall budget review process.

C. The Chief Executive Officer shall carry out these responsibilities according to guidelines and policies to be established by the Chief Executive Officer, policies established by the Commission, and within the overall approved budget constraints.

XV. POLICY GOVERNING ELECTRONIC SIGNATURES

A. The Port finds it to be in the public's interest to allow the use of electronic records and electronic signatures for Port business to the fullest extent allowed by law.

B. The Port recognizes that whenever the use of a written, affixed by hand, or where the signature is created when a person physically marks a document with the intent to sign the record, is authorized or required, an electronic signature may be used with the same force and effect, except as otherwise required by law.

C. A Port document that is required by law to be signed in non-electronic media, may not be digitally or electronically signed.

D. The Commission authorizes the use of an electronic signature platform or any similar technology solution to affix electronic signatures to electronic records.

E. The Chief Executive Officer is authorized to implement the application of electronic signatures and to establish procedures for the use and acceptance of electronic signatures by administrative employees, to the extent allowed by law.

XVI. POLICY GOVERNING AUTHORITY FOR PROPERTY ACQUISITIONS AND SALES

A. Chief Executive Officer's Authority for Acquisitions Authorized by the Commission. When the Commission authorizes the acquisition of real property by purchase or condemnation, the Chief Executive Officer shall take all necessary steps, including the securing of appraisals, to secure title of such property for the Port. Acquisition price of individual properties (or ownerships) shall in no case exceed the Port's appraisal, nor shall the total price paid for all properties exceed the estimates of the Commission's authorization without further specific Commission authorization.

B. Execution of Documents of Sale. The sale of real property is reserved to the specific Commission authorization. When the Commission authorizes the sale of real property, the Chief Executive Officer shall take all necessary steps to complete the transaction, including, but not limited to, accepting deposits, opening escrow, and signing all necessary documents.

XVII. POLICY GOVERNING ADJUSTMENT AND SETTLEMENT OF CLAIMS

A. Procedure for Settling Claims. The Chief Executive Officer shall be responsible for the implementation of procedures for the settlement of all claims, either against or on behalf

of the Port. For purpose of this Section, "Claim" shall mean the assertion of any position, penalty, right, or responsibility alleging liability by or against the Port, its Commissioners, or employees, and shall exclude all matters pertaining to the disposition of uncollectable accounts. Procedures in the handling of Claims shall, at a minimum, include the following:

1. No Claim against the Port shall be considered unless and until proper written notice has been provided to the Port.
2. All Claims for or against the Port may be processed in all respects (except for their final approval and payment) by the Chief Executive Officer in consultation with the Port's Legal Counsel.
3. Except as provided under Section B below, no Claims shall be finally approved for settlement except by the Commission and no Claim shall be paid except as authorized by the Commission.

B. Chief Executive Officer's Authority to Settle Claims. The Chief Executive Officer may, following consultation with and the written concurrence of the Port's Legal Counsel, negotiate and settle Claim(s) asserted against the Port or Claims asserted by the Port for an amount not to exceed \$100,000 for a single incident; provided that the Claim(s) seek only money damages and do not personally name or assert a Claim against a Commissioner. The Chief Executive Officer may settle Claims against the Port or Claims asserted by the Port arising from operations for an amount not exceeding \$50,000, provided there is written concurrence from the Port's Legal Counsel or consultation with insurance coverage providers. All Claims when settled shall be reported to the Commission.

XVIII. POLICY GOVERNING DISPOSITION OF UNCOLLECTIBLE ACCOUNTS

A. Definition of "Write-Off." The term "write-off" means the adjustment of the accounting records of the Port to reflect the fact that the account is uncollectible. The Chief Executive Officer may authorize Legal Counsel to initiate or continue with legal action to collect an account without regard to whether the account has been written off the accounting records of the Port.

B. Procedures. The Chief Executive Officer is authorized to establish procedures for and to write off any uncollectible account in the amount of \$5,000 or less subject to the following general guidelines:

1. Prior to writing off any account receivable or uncollectible, the Chief Executive Officer and the Chief Financial Officer shall be satisfied that every reasonable effort has been made by the Port to accomplish the collection of the account.
2. Any account in excess of \$5,000 which is deemed to be uncollectible shall be referred to the Port Commission for final write-off.

XIX. POLICY GOVERNING LEASE SURETY, SURETY BONDS, RENTAL DEPOSITS, AND INSURANCE POLICIES

A. Chief Executive Officer's Authority. The Chief Executive Officer or their designee is authorized to take all necessary actions on behalf of the Commission in connection with lease surety, lease surety bonds, assignments of accounts, rental deposits, or insurance coverage required pursuant to any leases of the Port, including any of the following actions:

1. Where the lease is not in default, to release any surety, surety bond, or rental deposit where an adequate substitute surety or rental deposit has been provided.
2. To approve any surety, surety bond, rental deposit, certificate of insurance, or insurance policies submitted in fulfillment of the requirements of any lease, including substitute or replacement coverage for any terminated bond, surety, or rental insurance.
3. To approve any substitute or modifications of surety or insurance coverage, and to release any surety or insurance company when substitute or replacement insurance coverage has been provided in connection with any outstanding lease of the Port.

Competition requirement for purchases of insurance or bonds are waived pursuant to RCW 39.04.280(1)(d).

XX. POLICY GOVERNING SALE OF SURPLUS PORT PERSONAL PROPERTY

A. Sale of Property Pursuant to RCW 53.08.090. The Chief Executive Officer or their designee is authorized, pursuant to RCW 53.08.090, to sell and convey surplus personal property of the Port through a competitive bidding process subject to the following conditions:

1. The market value of such personal property does not exceed the amount allowed pursuant to RCW 53.08.090; and
2. Prior to any such sale or conveyance, the Chief Executive Officer shall itemize and list the property to be sold and make written certification to the Commission that the listed property is no longer needed for Port purposes; and
3. Offers for purchase are solicited from at least three parties whenever possible; and
4. Any large block of such property having a value in excess of the amount allowed for pursuant to RCW 53.08.090 shall not be divided into components of a lesser value and sold unless done so by public competitive bid; and

5. No property which is part of the comprehensive plan of improvement or modification thereof shall be disposed of until the comprehensive plan has been modified pursuant to RCW 53.20.010 and until such property is found to be surplus to Port needs; and
6. In no case shall surplus personal property be directly sold to any Port official or employee or members of their families. This prohibition does not apply to sales through third party public auctions.
7. The Port may convey, at no cost, surplus personal property of the Port to any other governmental agency pursuant to the Interlocal Cooperation Act, chapter 39.34 RCW, or any other applicable laws.

XXI. LEGAL SERVICES AND LITIGATION

A. Commission Control and Consultation. The Commission retains governing control over all litigation, whether threatened, pending or on-going, involving the Port. The Chief Executive Officer shall, in conjunction with the Port's Legal Counsel, regularly consult with and advise the Commission on the risks associated with and the strategy and the economic impact of litigation, and consult with, recommend to, and advise the Commission on the need for the Port to execute conflict waivers and joint defense agreements.

B. Management and Supervision of Litigations. The Chief Executive Officer and the Port's Legal Counsel shall be responsible for the day-to-day management and supervision of all litigation in which the Port has an interest, direct or indirect. For purposes of this section, "litigation" shall mean the assertion or potential assertion of any position, right, or responsibility by or against the Port, including actions which have been filed in any court or any quasi-judicial or administrative forum.

C. Engagement of Experts. The Chief Executive Officer may engage or cause to be engaged through the Port's Legal Counsel, such experts as may be necessary for the orderly support of claims or litigation in which the Port has a direct or indirect interest. Such engagement shall be authorized with direction after consultation given by the Port's Legal Counsel and the Commission after having satisfied themselves that such expenditure is necessary to the adequate preparation and representation of the Port's position in such litigation or claim and shall, wherever practicable, include evaluation of the litigation or claim and an estimate of the probable cost of such experts.

D. Special Legal Services. The Chief Executive Officer, with direction after consultation of the Commission, is authorized to retain other such special counsel at fees as may be negotiated to assist in the handling of any claims, hire experts, litigation, or other matters necessary to attend to the legal affairs of the Port.

XXII. POLICY GOVERNING INTERGOVERNMENTAL AND OTHER AGREEMENTS

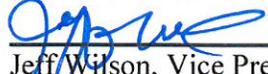
A. Chief Executive Officer's Authority.

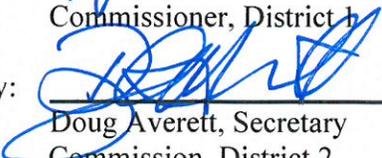
1. The Chief Executive Officer is authorized to execute intergovernmental agreements, including memoranda of understanding and memoranda of agreement, and amendments thereto (collectively, IGAs), related to ongoing projects that the Port Commission has previously approved, if the IGA implements or funds the prior approved project, is consistent with the Port's approved budget and Port procedures, and does not otherwise commit the Port to unbudgeted expenditures. By way of example, and not to provide any limitation of this provision, the Chief Executive Officer may execute an IGA to fund additional dredging of the Lower Columbia River pursuant to the Project Cooperation Agreement dated June 23, 2004, that the Port Commission previously approved, if such expenditure is included in the Port's adopted budget.
2. The Chief Executive Officer is authorized to execute agreements with other public agencies for the purposes of participating in purchasing cooperatives, conducting training exercises related to police, fire, and public health and safety issues, in addition to event and site-use agreements with organizations for one-day events conducted by such organizations on Port property; provided, however, such agreements shall be consistent with the Port's approved budget, Port procedures, and shall not otherwise commit the Port to unbudgeted expenditures.

ADOPTED by the Port of Longview Board of Commissioners this 13th day of July, 2022.

**PORT OF LONGVIEW
BOARD OF COMMISSIONERS**

By: 
Allan Erickson, President
Commissioner, District 3

By: 
Jeff Wilson, Vice President
Commissioner, District 1

By: 
Doug Averett, Secretary
Commission, District 2