

**PORT OF OLYMPIA COMMISSION  
Resolution 2019-07**

**Exhibit A**

**A Resolution of the Port of Olympia Commission, providing for the delegation of authority to the Executive Director and his or her designee for matters related to Real Property**

The Port Commission will approve and adopt the Port’s Comprehensive Scheme of Harbor Improvements or any other such plans that may impact all Port properties available for leasing or rental following appropriate public outreach efforts.

**1. REAL PROPERTY AGREEMENTS: (Policy 1101)**

The following directives apply to all agreements for use of Port real property including but not limited to leases, license agreements, rental agreements, operating agreements, memorandums of understanding, and use agreements (all hereinafter referred to as “Real Property Agreements” or “Agreements”).

All of the proposed final terms of an Agreement and security will conform to Port Real Property Policy as described herein and be approved as to form by Port General Counsel and conform to Port Real Estate practices and guidelines set forth in this policy.

**Signature Authorization**

The Executive Director is authorized to approve and sign Real Property Agreements provided the Port’s standard Agreement form is used (except for provisions inapplicable), the Agreement terms conform to Port real estate practices and guidelines set forth in the Real Property Policy.

**Negotiation**

The Executive Director or his or her designee may enter into preliminary discussions and negotiations with all parties involved prior to the execution of any Real Property Agreement. The Executive Director will apprise the Commission of the status of negotiations, as needed.

**Compliance**

The Executive Director is responsible for compliance with all Agreement terms and is authorized to take necessary measures to cause compliance and to protect the Port’s legal position, including but not limited to the giving of all notices provided for in the Agreement.

## **Form**

All real property belonging to the Port when available for lease shall, except as otherwise provided herein below, be leased only under an appropriate written lease instrument/template approved as to form by Port General Counsel and executed by the Executive Director and authorized by the Port Commission, accompanied by a lease bond or other form of security in accordance with law and Port policy.

## **Use**

The use for which the property may be under contract with a user shall be expressly stated and in accordance with the Port's Comprehensive Scheme of Harbor Improvements adopted by the Port Commission.

## **Rent/Lease Rates**

The amount of rent shall be based on a financial analysis providing revenue to the Port that is consistent with financial goals of the Port or as otherwise may be established by appraisal or Commission action.

The Executive Director may present recommendations related to rents and/or methodologies for calculating rents for real estate leasing and rentals, provided such recommendations are based on financial analysis and fair market practices which may include appraisal or other comparable methodology.

## **Securities and Insurance**

All rental/leasing agreements shall be accompanied by a bond or other security in compliance with RCW 53.08.085. Security may be cash, assignment of CD or savings account, or a Letter of Credit from a financial institution acceptable to the Port.

Land and space lease agreements with terms greater than one (1) year shall have a security of one (1) year's worth of rent plus Washington State leasehold excise tax.

Land and space lease agreements with terms of one (1) year or less shall have a security of three (3) month's worth of rent plus Washington State leasehold excise tax.

Retail and/or Flex Space lease agreements shall have a security of two (2) month's worth of rent plus Washington State leasehold excise tax and all other costs associated with triple nets.

In addition, all agreements will be accompanied by evidence of insurance in fulfillment of the requirements of the agreement, but in no event shall it be less than \$1,000,000 Bodily Injury/Death and \$500,000 Property Damage, per occurrence.

## **Ratification Required**

**Long Term Leases:** The Port Commission, in public session, will ratify Port long term leases defined under this policy as leases of greater than one (1) year for land and space leases and greater than three (3) years for Retail and Flex Space leases, or the assignment of any such long term leases. Long term leases and assignments will not become final until ratified by the Port Commission.

**Other:** Any and all long term agreements that impose any financial obligation on the Port for improvements will be ratified by the Port Commission in public session.

## **Ratification Not Required**

The Executive Director or his or her designee is authorized to approve and execute the following agreements without ratification by Port Commission:

- **Short Term Land and Space Lease Agreements - Terms of one (1) year or less**
- **Short Term Retail and/or Flex Space Lease Agreements - Terms of three (3) years or less**
- **Airport Hangar/Marina Tenant Agreements** – Short-term leases for airport hangars, marina slips, storage, special events.
- **Technical Amendments** – amendments that do not cause a change in use, premises or term, or decrease in financial return to the Port, or scheduled rate increases, subleases or exercise of options included in the lease terms and conditions, and amendments that implement the provisions in the lease.
- **Other Agreements** – including but not limited to License Agreements, Operating Agreements, Memorandum of Understanding, Letters of Intent, Easements, and Use Agreements; Easements, Licenses and Permits ancillary to the normal operations of the Port.

## **Release of Securities and Insurance**

The Executive Director is authorized to take all necessary actions on behalf of the Port Commission in connection with Agreement surety bonds, Agreement surety, rental insurance, or other security (hereinafter referred to as “Agreement Security”) and insurance coverage required pursuant to any Agreements of the Port, including the following actions:

- a. Where the Agreement is not in default, to release any Agreement Security where an adequate substitute security has been provided.
- b. To approve any Agreement Security or insurance submitted in fulfillment of the requirements of any Agreement, including substitute or replacement coverage for any terminated bond or other Agreement Security.

- c. To approve any substitute or modification of insurance, and to release any insurance company when substitute or replacement insurance coverage has been provided.

## **2. REAL PROPERTY ACQUISITIONS (Policy 1102)**

The Port Commission will authorize all acquisition of real property. The Port may acquire revenue producing Real Properties as opportunities arise. The Port seeks to acquire real property that generates revenue so that the Port relies less on its tax levy to grow business in Thurston County. Properties may qualify where their revenue compared to acquisition cost is estimated to yield an acceptable Internal Rate of Return.

In accordance with Washington State law, the acquisition price of individual properties (or ownerships) shall in no case exceed the Port's appraisal by 10%, nor shall the total price paid for such properties exceed the Port's budget, without specific Commission approval.

Prior to any Real (Estate) Property Acquisition, the Executive Director shall ensure that a thorough Real Estate and Financial analysis is completed and shared with the Commission. The Real Estate analysis shall include a property condition assessment, including the securing of appraisals when appropriate and necessary to establish value, known or anticipated capital and maintenance requirements, current and projected rent roll, known or anticipated vacancies, and with the assistance a qualified consultant, a general understanding of current and projected market conditions.

The overall Financial Analysis shall include the source(s) of funding, loan/financing assumptions, amortization schedule and the acquisition Cap Rate.

At a minimum, the Financial Pro-forma shall include Internal Rate of Return (IRR), Net Present Value (NPV), Return on Assets (ROA) for the individual property(s) under consideration, Payback Period, Debt Service Coverage and General and Administrative Overhead assigned to the acquisition.

## **3. REAL PROPERTY -- DISPOSITION (Policy 1103)**

The Executive Director or designee is authorized, pursuant to the Revised Code of Washington 53.08.090, to sell and convey surplus Port property consistent with the Port's annual resolution for the disposition of Port property.

## **4. COMMISSION ON REAL ESTATE TRANSACTIONS (Policy 1104)**

The Port may pay a real estate commission ("commission") to a real estate broker, agent, professional, or firm licensed to conduct real estate transactions in the State of Washington

("Broker") that is the procuring cause of a lease or sale of Port-owned land, buildings, or improvements.

**Not Payable Commissions:**

- a. The Port shall not be bound to pay any Real Estate Commission, Finder's Fee, or other compensation in the absence of a written agreement signed by the Port.
- b. No real estate commission will be payable if the Client, or any individual, entity, association, or other person that has any interest in the Client or is otherwise directly or indirectly related to or affiliated with the Client, is a present or prior tenant of the Port, or a buyer or seller in any present or prior transaction regarding any Port-owned land, buildings, or improvements.
- c. No real estate commission will be payable if the Procuring Broker or any individual, entity, association, or other person in which the Procuring Broker has any interest or that is otherwise directly or indirectly related to or affiliated with the Procuring Broker, each of the foregoing being hereinafter referred to as a "Broker Related Person", has any direct or indirect interest in or relationship with any entity, association, individual, or other person involved in the transaction with the Port, or any project related to such transaction.
- d. No real estate commission will be payable if the Procuring Broker or any Broker Related Person will receive a commission or other compensation from any individual, entity, association, or person other than the Port that is in any way related to the transaction with the Port, or any project related to such transaction.

**Finder's Fee**

Notwithstanding anything to the contrary, in any lease or sale of real property where no real estate commission is payable, the Port may pay a "Finder's Fee" to any individual or firm other than a Broker that introduces a prospective Client to the Port if such Client thereafter enters into a lease or other agreement with the Port.

**Rates and Payments of Real Estate Commissions and Finder's Fee**

The Executive Director may present recommendations related to commission and finder's fee rates, methodologies for calculating such rates, and the conditions and schedule for payment provided such recommendations ensure that real property commission and finder's fee rates are not more generous to Brokers and Finders than fair market rates and practices.

**Port and Broker Agreement**

The Executive Director is authorized to negotiate, approve, and execute agreements related to the payment of a commission or finder's fee, and payment of a commission or finder's fee, without approval or ratification by the Port Commission, provided that such

agreements are approved as to form by Port General Counsel, and provided that such agreements and payments are in accordance with the standards stated herein and in Section 1100 (Real Property) of the Port's Policies and Procedures.

This Resolution shall not affect obligations of the Port under any listing agreement that is fully signed and effective prior to the effective date of this Resolution.

## **5. REAL ESTATE REINVESTMENT (Policy 1105)**

The Port will reinvest the proceeds from real property sales in new real property assets that will derive economic benefit to the community; management of real estate resources in a manner that is estimated to create sustainable economic growth in Thurston County.

The purpose of the Property Reinvestment fund is to:

- Reserve financial proceeds that the Port receives from the sale of its real estate assets for the purchase of other real estate and investment in infrastructure that may be deemed necessary to make such purchased real estate development-ready.
- Diversify the Port real property landholdings and to reinvest in real property that is estimated to contribute to the economic well being of the Port District.
- Create financial reserves as a contingency for environmental clean-ups when the actual cost of such clean-ups may exceed the estimated cost.
- Reinvest in property that can be developed or redeveloped and either leased or resold.

Reinvestment may include, but is not limited to:

- Brown fields for clean-up and redevelopment.
- Consolidation of industrial or commercial parcels into marketable blocks.
- Industrial or commercial tracts.
- Marine-related properties
- Airport-related properties.
- Infrastructure and/or amenities which are deemed necessary to render the property competitive and marketable.

### **Executive Director Authorization**

The Executive Director is authorized to take the following action:

- a. Create and maintain adequate records to account for funds generated from the sale of real property.
- b. Commingle the Property Reinvestment funds with other Port invested funds as long as they are accounted for separately and a proportionate distribution of investment earnings are allocated to and added to such Property Reinvestment funds.

## **6. NAMING CONVENTIONS AND PROTOCOLS (Policy 1107)**

The Port of Olympia Commission may confer a specific commemorative name on a Port owned property, building, structure, right of way, street or micro project. The Executive Director will establish criteria and procedures for conferring a commemorative name. The established criteria should also be followed in reviewing or preparing the Port of Olympia's official comments or recommendations to state, federal, and/or intergovernmental boards taking actions regarding geographic names, naming or renaming.

### **Exclusions:**

The following types of property are excluded from this policy:

- Historically registered properties listed or under consideration on any federal, state or local historical registry
- Public art installations that have been commissioned and/or accessioned with a title that serves as the name of the piece.
- Legacy branded properties and titles including The Port of Olympia, The Port of Olympia Marine Terminal, Swantown Marina and Boatworks, NorthPoint, East Bay, The Market District, The Olympia Regional Airport, and NewMarket Industrial Campus
- Any facility or structure regulated by an international, federal or state agency and identified in a national or international publication

### **Establishment of Naming Review Team**

The Executive Director shall establish a Naming Review Team consisting of four standing members and one at large member from the business unit being considered for a commemorative name. Based on the Naming Review Team review, the Executive Director shall make a recommendation to the Port Commission.

### **Business Unit Marketing and Revenue Generation**

Business unit advertising and public promotion programs are not subject to this policy and remain at the discretion of the business unit director and the Executive Director.

## **7. REAL ESTATE INVESTMENT & DEVELOPMENT (Policy 1108)**

Consistent with Title 53 of the Revised Code of Washington (RCW), the Port of Olympia Comprehensive Scheme of Harbor Improvements (CSHI) and the Port of Olympia Strategic Plan, the Port will consider Real Estate Investment & Development projects and opportunities that support and create economic growth in Thurston County. It is not the intent of this policy to identify types of business investment or development (i.e. marine, airport, tourism, agriculture, etc.), rather to identify vehicles and instruments of investment and development.

Investment and Development projects considered by the Port may include, but are not limited to:

- Real property and building purchases, subject to the procedures established in Policy 1102
- Site and building development/re-development/re-furbish/re-model/construction/leasing/sale/leaseback/purchase option
- Design-build projects consistent with existing federal/state/local laws & regulations
- Public/private partnerships/Interagency or inter-governmental partnership
- Environmental remediation and redevelopment
- Property and boundary modifications such as consolidation of parcels, binding site plans, short plat developments or other projects consistent with local zoning codes
- Contributions to local communities, municipalities, government/inter-government and trade & resource agencies as allowed by law
- Other projects the Port Commission determines to be consistent with this policy

Funding sources and instruments that may be considered by the Port include:

- Port general funds
- Federal, state or local grant funds
- Federal & State governmental funding appropriations and pass through instruments
- Issuance of General Obligation or Revenue bonds
- Tax Levy Funds
- Local Improvement District (LID) Assessments or other similar local latecomer funding initiatives
- Other sources the Port Commission determines to be consistent with this policy