

AGENDA

Port of Kennewick
Regular Commission Business Meeting
Port of Kennewick Commission Chambers
350 Clover Island Drive, Suite 200, Kennewick, Washington

Tuesday, August 23, 2011
2:00 p.m.

- I. CALL TO ORDER**
- II. PLEDGE OF ALLEGIANCE**
- III. PUBLIC COMMENT** *(Please state your name and address for the public record)*
- IV. CONSENT AGENDA**
 - A. Approval of Direct Deposit and Warrants Dated August 15, 2011
 - B. Approval of Warrant Registers Dated August 24, 2011
 - C. Payment of \$7,807.50 to K&L Gates/Heiskell MacGillivray & Associates
 - D. Payment of \$2,623.04 to K&L Gates/Heiskell MacGillivray & Associates
 - E. Rescind Resolutions 2005-50 and 2009-29; and Appointing a Public Records Officer and Records Committee; Resolution 2011-32
 - F. Award of Commercial, Property and Liability Insurance; Resolution 2011-33
 - G. Approval of Port Policy Manual Updates; Resolution 2011-34
 - H. Approval of Emergency Cedars Dock Repair; Resolution 2011-36
- V. PRESENTATIONS**
 - A. Pompy's Lesson's Project, Randy Way
 - B. Clover Island Lighthouse Stamp/US Lighthouse Society, Clover Island Inn/Ice Harbor Brewing Co.
- VI. NEW BUSINESS**
 - A. Public Records Request dated August 3, 2011
 - B. Public Records Request Procedures; Resolution 2011-35
 - C. Meeting with Confederated Tribes of the Umatilla Indian Reservation August 26, 2011
- VII. BREAK, IF NEEDED**
- VIII. REPORTS, COMMENTS AND DISCUSSION ITEMS**
 - A. Benton City
 - 1. DNR Site Assessment Inventory Analysis Letter
 - B. Redistricting Update
 - C. Commissioner Meetings (formal and informal meetings with groups or individuals)
 - D. Non-Scheduled Items
- IX. PUBLIC COMMENT** *(Please state your name and address for the public record)*
- X. EXECUTIVE SESSION** *(Ask public if they are staying, and if not, where they can be located if the Executive Session ends early.)*
 - A. RCW 42.30.110(1)(f) Evaluate Complaint Against Public Officer
- XI. ADJOURNMENT**

PLEASE SILENCE CELL PHONES

PORT OF KENNEWICK

Resolution No. 2011-32

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE PORT OF KENNEWICK RESCINDING RESOLUTIONS 2005-50 AND 2009-26 AND APPOINTING A PUBLIC RECORDS OFFICER AND ADOPTING A RECORDS MANAGEMENT COMMITTEE

WHEREAS, it is the policy of the Port of Kennewick to comply with state law regarding the retention, protection, public accessibility, and disposal of all Port's records, and

WHEREAS, in order for the Port of Kennewick to comply with state law, the Commission must appoint a Public Records Officer and establish a records committee as per RCW 40.14.040 through RCW 40.14.070, and

WHEREAS, the Port of Kennewick desires to rescind Resolution 2005-50 and Resolution 2009-26 and declare a new Public Records Officer, and

NOW THEREFORE, BE IT RESOLVED that the Port of Kennewick Board of Commissioners hereby rescinds Resolution 2005-50 and Resolution 2009-26.

BE IT FURTHER RESOLVED that the Commission hereby appoints the Executive Assistant as the Port of Kennewick Records Officer and adopts a records committee that consists of the Public Records Officer, the Director of Finance/Auditor and the Port Attorney and hereby authorizes the Port's records committee to develop and enforce a Records Management Program.

ADOPTED by the Board of Commissioners of the Port of Kennewick on the 23rd day of August, 2011.

***PORT OF KENNEWICK
BOARD OF COMMISSIONERS***

By: _____
SKIP NOVAKOVICH, *President*

By: _____
DAVID HANSON, *Vice President*

By: _____
GENE WAGNER, *Secretary*

PORT OF KENNEWICK

RESOLUTION 2011-33

***A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF THE PORT OF KENNEWICK AWARDING COMMERCIAL,
PROPERTY AND LIABILITY INSURANCE TO BASIN INSURANCE ASSOCIATES***

WHEREAS, the Port currently is insured for commercial, property and liability insurance through Enduris, with said policy expiring September 1, 2011; and

WHEREAS, the Port requested quotes for insurance from Enduris, Conover and Basin Insurance Associates; and

WHEREAS, the Port performed due diligence which included review of the quotes; reference checks; review of regulatory agencies such as Office of Insurance Commission, State Auditor's Office, Office of Financial Management; and financial statement review.

WHEREAS, through the due diligence process, it was determined Basin Insurance Associates is best suited for the Port's needs.

NOW THEREFORE, BE IT RESOLVED that the Port of Kennewick Commission does hereby authorize the Executive Director to enter into a contract between the Port of Kennewick and Basin Insurance Associates for commercial, property and liability insurance.

ADOPTED by the Board of Commissioners of Port of Kennewick on the 23rd day of August 2011.

**PORT OF KENNEWICK
BOARD OF COMMISSIONERS**

By: _____
SKIP NOVAKOVICH, President

By: _____
DAVID HANSON, Vice President

By: _____
GENE WAGNER, Secretary

PORT OF KENNEWICK

Resolution No. 2011-34

***A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF THE PORT OF KENNEWICK AUTHORIZING
AMENDMENTS TO THE PORT'S POLICY MANUAL***

WHEREAS, the Port of Kennewick (Port) has a policy manuals in effect which addresses general administrative and personnel matters; and

WHEREAS, this manual must be updated occasionally with all revisions being approved by the Port Commission via Resolution; and

WHEREAS, staff recommends revisions to the Policies and Procedures Handbook and believes this to be in the best interest of the Port.

NOW, THEREFORE; BE IT HEREBY RESOLVED that the Board of Commissioners of the Port of Kennewick hereby approve the revisions to the Policies and Procedures Handbook as illustrated.

BE IT HEREBY FURTHER RESOLVED the manual shall remain in effect until further revised.

ADOPTED by the Board of Commissioners of the Port of Kennewick this 23rd day of August 2011.

***PORT OF KENNEWICK
BOARD OF COMMISSIONERS***

By: _____
SKIP NOVAKOVICH, *President*

By: _____
DAVID HANSON, *Vice President*

By: _____
GENE WAGNER, *Secretary*

PORT OF KENNEWICK

POLICIES AND PROCEDURES HANDBOOK

Adopted July 7, 1981

Amended [] February 22, 2011, November 23, 2010, July 13, 2010, January 12, 2010, August 25, 2009; February 10, 2009; September 25, 2007; March 14, 2000; November 9, 1999; December 23, August 12, & February 11, 1997; November 5, & May 7, 1996; December 20, 1994; December 8 & November 3, 1992; January 16, 1990; January 21, 1986; June 5, 1984

TABLE OF CONTENTS

PERSONNEL POLICY

<i>Overview</i>	<i>5</i>
Administrative Positions	5
Appointments/Classifications	4
Anti-harassment	12
Attendance	12
Bereavement Leave	8
Classifications/Titles	5
Confidentiality	13
Drug and Alcohol Free Workplace	11
Executive Positions	5
Exempt Employees	5
Family and Medical Leave	8
Full-Time Employees	5
Gratuities	13
Group Benefit Plans	22
Holidays	6
Hours of Work, Overtime and Compensatory Time	5
Jury Duty	9
Leave Without Pay	9
Leaves of Absence	8
Life Insurance/Long Term Disability (LTD)	22
Maintenance Position Benefits	23
Mandated Benefits	22
Maternity Leave	9
Medical Insurance	22

Military Leave	9
Non- Exempt Employees	4
Other Benefits	22
Outside Employment.....	13
Paid Time Off	6
Part-Time Employees.....	5
Pay Period	6
Professional Positions	5
Progressive Discipline	10 & 11
Salary	6
Staff Positions	5
Standards of Conduct.....	10
Telephone Calls/Personal Business	13
Temporary Employees	5
Types of Employees.....	4
Use of Port Property.....	13
Utilization of Port Online Service.....	21
Whistleblower Act	13
Workplace Violence.....	11

PORT OWNED VEHICLE POLICY

<i>Overview</i>	30
Fuel	29
Purchase	30

TRAVEL POLICY

<i>Overview</i>	23
Expenses	23
Forms	25
Lodging	23
Meeting/Conference registration.....	24
Miscellaneous	24 & 29
Official Travel Defined.....	25
Other Business Expenses	27
Promotional Hosting	24
Subsistence.....	24
Transportation	24
Travel Authorization.....	26
Use of Credit Cards.....	28

TELEPHONE/FAX/INTERNET ALLOWANCE POLICY

<i>Overview, Policy and Responsibilities.....</i>	<i>29</i>
---	-----------

VEHICLE COMPENSATION POLICY

<i>Overview</i>	<i>31</i>
Vehicle Compensation	32

WELLNESS PROGRAM POLICY

Wellness Program	32
------------------------	----

INSURANCE POLICY

Policy	32
--------------	----

FLOWER POLICY

Policy	33
--------------	----

EXHIBITS

Exhibit “A” (Whistleblower Form)	34
Exhibit “B” (Drug and Alcohol-Free Workplace Policy)	38
Exhibit “C” (Policy Manual Acknowledgment)	43

PERSONNEL POLICY

The following are guidelines, which are set up as examples and a general listing of employment requirements of the Port of Kennewick. They are not all inclusive nor a complete statement of policy. Employees may leave the Port for any reason without legal obligations. Except as otherwise provided, the Port also reserves the right to terminate employees for any reason it deems necessary and each person's employment is for no specific term. Nothing contained in these guidelines shall in any way create a contract or quasi-contract of employment or establish any term of employment, nor in any way be construed as a waiver of the relationship of "employment at will." Except as otherwise provided, the Port retains and shall always have the complete, absolute and unequivocal right to set wages, terms of employment and to hire and discharge all employees at its sole will and discretion with or without cause.

Overview

The intent of these guidelines is to recognize that the Port will employ the most suitably qualified people available; that the tenure of the employee will depend upon the needs of the Port, effective performance, good conduct and continuing fitness for the position; and that each employee will be prepared and expected to perform at optimum level.

Further, the purpose of these guidelines is to facilitate efficient service to the Port of Kennewick, and hence to the general public; provide a system of equitable personnel management; and provide the employees of the Port a reasonably consistent, clearly defined set of rules.

It is recognized, however, that these guidelines will be considered broad in scope and that a reasonable approach will be taken on a case-by-case basis by the appropriate authority to equitably solve specific problems or situations.

All Port personnel policies, contracts and agreements are intended to operate in unison to provide comprehensive guidance. However, if there is an irreconcilable conflict between any of the provisions of various documents, the provisions must favorable to the employee shall prevail.

Appointments/Classifications

It is recognized that the Board of Commissioners is the governing body of the Port of Kennewick. The Board of Commissioners, under the provisions of RCW 53.08.170, appoints a full-time Executive Director answerable to the Board. All staff members will be under the direction of the Executive Director.

The Executive Director may authorize the establishment of full-time and part-time staff positions as deemed necessary and shall have the authority to fill such positions. Only the Executive Director is authorized to modify employees' at-will status.

Only the Board of Commissioners, by taking action, is authorized to modify the Executive Director's at-will status, subject to contractual rights and obligations set forth in applicable employment agreements.

Types of Employees

Exempt Employees: Employees classified as **Executive, Administrative, and Professional** are "exempt" and are not eligible for overtime compensation.

Full-time Employees: Full-Time employees are scheduled to work at least forty (40) hours per week on a regular basis

Non-Exempt Employees: Employees classified as “non-exempt” are paid on an hourly basis and are eligible for overtime. The Fair Labor Standards Act defines overtime as all hours worked beyond forty (40) in a work week.

Part-Time Employees: Part-Time employees are scheduled to work twenty (20) hours or less per week on a regular basis.

Temporary Employees: Temporary Employees are employed for a specific period of time or for a non-recurring work project. Temporary employees do not receive group benefits and are not eligible to earn vacation or sick leave. Credit for temporary service is granted if the employee converts to regular status with no more than a calendar month break in service. Temporary status shall not exceed six months.

Classifications/Titles

Job classification and titles are determined by a position’s duties and responsibilities and appropriate federal and Washington State guidelines. Exempt or non-exempt status is defined by State and/or Federal laws.

Administrative Positions: Administrative positions have the primary responsibility of managing a recognized department. The Director of Planning and Development, Director of Marketing and Governmental Relations and Director of Finance and Auditor positions are administrative. Administrative positions are normally exempt.

Executive Position: The Executive position has the primary responsibility of managing the operation and administration of the Port. The Executive Director is the Executive. The Executive Director position is exempt.

Professional Positions: Professional positions require specialized training and/or a college degree. They perform specialized, intellectual, artistic or varied work in professions.

Staff Positions: Staff positions provide a variety of support functions. The Executive Assistant, Project and Marketing Support Coordinator, Accounting Specialist and Facility/Maintenance positions are staff positions. Staff positions are normally non-exempt.

Hours of Work, Overtime and Compensatory Time

The normal hours of work at the Port of Kennewick are from 8:00 a. m. to 5:00 p.m., with a one- hour lunch break from 12:00 noon to 1:00 p.m., Monday through Friday. Flexible working schedules can be adopted to accommodate the requirements of the individual employee and/or the Port, but require prior approval of the Executive Director.

Part-Time employees will work a schedule designated by the Executive Director or his representative.

Non-Exempt employees receive a fifteen (15) minute break for each four (4) hours of work as near as possible to the midpoint of the four (4) hour period.

All overtime requires prior approval of the Executive Director or the Director of Finance/Auditor. All Non-Exempt employees are eligible for overtime. Non-Exempt employees who respond to after hour calls will receive a minimum two hour pay.

Compensatory (Comp) Time-With prior approval of the Executive Director or designee as directed by the Executive Director, Non-Exempt employees may request compensatory time off in lieu of overtime monetary compensation. Accrued compensatory time will be allocated at the time and one-half (1&1/2) rate.

Exempt Exchange Time – Exchange time is reasonable and necessary to provide flexibility in work hours for exempt staff working additional hours to facilitate Port business, including but not limited to community involvement, attending meetings after normally established work hours or other responsibilities as assigned. With approval of the Executive Director or designee as directed by the Executive Director, Exempt employees may request exchange time at the rate of one hour for each hour worked in excess of forty (40) in a week. The sum of exchange time accrued and available to an exempt employee may not exceed 120 hours at any time. Employees are expected to track exchange time on their bi-monthly time sheets. Exchange time can be used like other leave types, however, carries no cash or payout value to an employee at any time.

Compensation

Holidays

The Port of Kennewick follows the schedule of legal holidays set forth by the Washington State statute and is as follows. An additional holiday of the employee's choice is also available.

- January 1st, (New years Day)
- 3rd Monday of January, (Martin Luther King Day)
- 3rd Monday of February, (President's Day)
- Last Monday of May, (Memorial Day)
- July 4th, (Independence Day)
- 1st Monday of September, (Labor Day)
- November 11th, (Veteran's Day)
- 4th Thursday of November, (Thanksgiving Day)
- The Friday following Thanksgiving
- December 25th, (Christmas Day)
- One Day, Employee's Choice

Any legal holiday falling on a Saturday will be observed on the preceding Friday. Any legal holiday falling on a Sunday will be observed on the following Monday, unless otherwise directed, in advance, by the Executive Director.

Pay Period

Exempt and Non-Exempt employees shall be compensated on a regular basis on the fifteenth (15th) day and the last working day of every month.

Salary

The Executive Director may, in his sole discretion, review and adjust the salary of both exempt and non-exempt employees annually, or as deemed necessary, based upon efficient service, continued improvement, special merit and/or changes in the general cost of living.

Paid Time Off

Purpose for Paid Time Off (PTO). The purpose of [Paid Time Off \(PTO\)](#) is to provide employees with flexible paid time off from work that can be used for such needs as vacation, personal or family illness, doctor appointments, school, volunteerism, and other activities of the employee's choice. The company's goal is to reduce [unscheduled absences](#) and the need for supervisory oversight. It is also important that employees be encouraged to take vacation for their own well-being and health, however, employees shall be cautious not to use up all PTO for vacation in case of illness. If the PTO balance is depleted the employee will have to take time off without pay.

The PTO days an employee accrues, effective (date) replaces all existing vacation, sick time, and personal business days that an employee was allotted under prior policies. The vacation time an employee accrued in the past will carry over, in excess of the PTO policy, per the company's guidelines at the time.

Guidelines for PTO Use. Each full time employee will accrue PTO bi-monthly in hourly increments based on their length of service as defined below. PTO taken will be subtracted from the employee's accrued time bank in one hour increments. Temporary employees, contract employees, and interns are not eligible to accrue PTO. Employees must have completed ninety days (90) of service prior to using PTO.

Eligibility to accrue PTO is contingent on the employee either working or utilizing accrued PTO for the entire monthly pay period. PTO is not earned in pay periods during which unpaid leave or long term disability leave is taken.

Employees may use time from their PTO bank in hourly increments. Time that is not covered by the PTO policy, and for which separate guidelines and policies exist, include company paid holidays, bereavement time off, required jury duty, and military service leave is taken.

To take PTO requires advanced notice to the employee's supervisor unless the PTO is used for legitimate, unexpected illness or emergencies. (Use the Paid Time Off form to request PTO.) PTO in excess of two days requires a notice to the employee's supervisor two days prior to the employee's absence. The Port appreciates as much notice as possible when an employee expects to miss work for a scheduled absence. PTO in excess of five (5) days needs approval of the Executive Director.

Paid Time Off (PTO) Exceptions

- Employees who miss more than five consecutive unscheduled days, may be required to present a doctor's release to the Executive Director that permits them to return to work.
- PTO taken in excess of the PTO accrued can result in progressive disciplinary action up to and including employment termination. This time will be unpaid.
- The Executive Director may grant exceptions to this policy.

Specific Eligibility for Paid Time Off (PTO)

PTO is earned on the following schedule based on a 40 hour work week. PTO is prorated based on the number of hours worked on an employee's regular schedule.

Each employee may carry 120 days or 960 hours of accrued PTO over into a new calendar year. Employees are responsible for monitoring and taking their PTO over the course of a year so that they do not lose time accrued when the current calendar year ends. (PTO is subject to supervisory approval). If business circumstances prevented the employee from taking scheduled PTO, this PTO may be carried over and taken in the first half of the next calendar year or cashed out at the employee's current salary rate with the approval of the Executive Director.

Upon separation from Port service, a maximum of thirty (30) days or 240 hours at the employee's current salary rate and a maximum of ninety (90) days or 720 hours at 50% of the employee's current salary rate will be paid to the employee.

Employees shall have the option to cash out their accrued PTO and receive monetary compensation up to twenty (20) PTO days and the Executive Director shall have the option to receive monetary compensation up to thirty (30) PTO days in a calendar year. Furthermore, employees and Executive Director shall have the option to use their cash out days for contributing to the Port's deferred compensation plan covered in this policy limited to one (1) time per calendar year as long as it does not exceed the required amount per IRS regulations. Written requests must be given to Executive Director before December 15th of the current year. No more than three PTO cash out requests shall be permitted per year. In accordance with RCW 41.50.150 vacation cash out may not be reportable for retirement purposes.

PTO accrual schedule is listed below:

Completed Years of Service	PTO Days Per Year
01	24
02	28
05	32
10	36
15	40
20	44

Leaves of Absence

Bereavement Leave

Port employees will be granted up to three (3) working days with pay for a death in the immediate family, defined as spouse, child, mother, father, sister, brother, grandparent, grandchild, spouse's parent or grandparent, or step relationship.

Family and Medical Leave

The federal Family and Medical Leave Act of 1993 (FMLA) provides up to twelve (12) weeks of unpaid leave every twelve (12) months to eligible employees, both men and women, for certain family and medical reasons. To be eligible an employee must have worked for the Port for at least one (1) year, and for 1,250 hours over the previous twelve (12) months. There also must be at least fifty (50) employees working for the Port within seventy-five (75) miles of the place where an employee works. Because the Port currently does not employ fifty (50) people, it has no employees who are eligible for FMLA leave. Similarly, the

Washington State Family Leave Act regarding family and medical leave does not apply to the Port because it also requires at least fifty (50) employees before compliance is mandatory.

Jury Duty

Employees are expected to fulfill civic responsibilities by serving as jury members when called. Employees shall receive regular salary with the provisions that any monies received for jury duty shall accrue to the Port, with the exception of actual expenses.

Leave Without Pay

Unpaid personal leave of absence is a privilege to regular employees with acceptable job performance and a minimum of one (1) year of service. The leave is at the employee's request and approval and duration rests with the Executive Director. All applicable paid leave must be used before unpaid leave status is approved.

Maternity Disability Leave

As part of its medical leave policy, the Port provides maternity disability leave to all female employees for period of actual disability associated with pregnancy and childbirth. Maternity disability leave is treated the same as medical leave for any other short-term disability, except that leave will be granted for the entire period of any pregnancy-related disability. Maternity disability leave is for the period of disability only, and not for child rearing after the disability ends. The Port may require medical certification and other documentation to support a request for leave.

Military Leave

The Port recognizes the Nation's need for support of its military. The Port will abide by all applicable Federal and State statutes for employees on active duty, National Guard or the Military Reserves. Employees are required to notify the executive Director at the earliest date possible by providing a copy of their orders.

Shared Leave

Eligible employees may donate excess Paid Time Off (PTO) leave for use by another employee who is suffering from an extraordinary medical emergency. The severity of the emergency would cause the employee to take leave without pay or to terminate employment without shared leave. Employees who donate leave waive all rights to the donated leave.

Employees may request a leave donation when they have or expect to use all of their accrued leave (including vacation, sick, personal days, and compensatory time) and would otherwise be on a leave without pay and has been found to be ineligible to receive industrial insurance benefits. The employee receiving a sick leave donation is required to provide medical justification and documentation both of the necessity for the leave and the length of time the employee reasonably can be expected to be absent due to the condition. While an employee is receiving shared leave, the employee continues to be classified as a Port employee and shall receive the same treatment in respect to compensation and employee benefits as the employee would normally received if using the employee's own accrued leave except that the shared hours received are not eligible for retirement benefits. The maximum number of hours an employee can receive of donated leave is 480 hours per calendar year. The Executive Director retains discretion to determine the eligibility to receive donated leave. The maximum amount of sick leave that an employee can donate per calendar year is 40 hours. The donating employees' PTO leave balance may not fall below 480 hours. Donations and use of leave are on an hour-for-hour basis, without conversion for differentials between rates of pay received by the donors and the recipients. In the case where employees donate more leave than used by the recipient, the amount of unused donated leave will be credited back to the donor.

STANDARDS OF CONDUCT

General Rules

All employees should act professionally and in the best interests of the Port at all times. Violations of the Port's standards of conduct are unacceptable and may result in discipline, including immediate termination.

The following are examples of violations of the Port's standards of conduct. They merely illustrate, and do not limit, the types of conduct the Port may consider unacceptable.

- Abusive language or unprofessional conduct toward another person
- Covert recording
- Falsifying or inaccurately completing records, including employment applications or time sheets
- Harassment or discrimination of any nature
- Inappropriate dress or poor grooming
- Insubordination or failure to carry out instructions
- Misusing, destroying, or purposely damaging Port property or property of an employee
- Performance that does not meet Port requirements
- Tardiness or absenteeism
- Theft of Port property or property of an employee
- Unauthorized use or release of confidential information
- Unprofessional conduct
- Using work time for personal activities
- Using, possessing, manufacturing, distributing, being under the influence of any controlled substance or alcohol in the workplace, or smelling of alcohol, during working hours, while on Port premises, or while engaging in Port business

Additional standards of conduct are described throughout this Handbook.

The Port's policies are not intended to include a complete list of all circumstances that may result in progressive discipline or termination. The rules set out in this handbook are intended only as guidelines and do not give any employee a right to continued employment or to termination only for cause. All progressive discipline decisions remain at the Port's discretion. The Port has the right in all circumstances to apply the progressive discipline it determines to be appropriate, up to and including, immediate termination without prior progressive discipline or notice.

The Port may take the progressive discipline it decides is appropriate whenever it believes such action is in the Port's best interests. Progressive discipline the Port may take includes verbal warning; written warning; probation; suspension with or without pay; demotion or reassignment; or termination, with or without prior

notice. Suspension may be used for several purposes, including, for example, as a corrective measure, to permit an investigation, to allow the Port time to determine what progressive discipline will be applied, or to remove an employee from the premises for a period of time. Benefits such as annual leave and compensatory time may not be used during a period of suspension or probation, unless previously approved in writing by the Executive Director.

The goal of the Port's progressive discipline policy is to correct unsatisfactory behavior or performance. To that end, it is the Port's policy generally to apply less severe progressive discipline initially and more severe measures if the problem persists. This is only a guideline, however. The Port may, in any circumstance, terminate an employee without prior progressive discipline or notice.

The Executive Director is authorized to take disciplinary action including termination, against both exempt and non-exempt employees.

Except as otherwise provided, the Board of Commissioners, by taking action, has the unqualified right to dismiss the Executive Director at its sole will and discretion.

Workplace Violence

The Port and its employees share responsibility for the provision of a safe and secure work environment for all employees. In order to ensure workplace safety and provide for each employee's dignity, the Port has established a policy of zero tolerance for violence and will take appropriate action, up to and including, immediate termination, against anyone who engages in threatening or violent behavior.

Drug and Alcohol-Free Workplace

The Port maintains a drug and alcohol-free workplace. The possession, manufacture, distribution, dispensation, use or trafficking of alcohol or controlled substances or smelling of alcohol in the workplace, while on Port premises, while engaging in Port business, or during working hours, poses unacceptable risks to the safe, secure, and efficient operation of the Port and are strictly prohibited. Employees violating the Port's Drug and Alcohol-Free Workplace Policy will be subject to discipline, up to and including, immediate termination. As a condition of employment all Port employees must read and sign the Drug and Alcohol-Free Workplace Policy, a copy of which is attached at *Exhibit B*.

Workplace Safety

The Port is committed to providing a safe and healthy work environment for all employees, vendors, and customers, as well as the general public. To assist in providing a safe and healthy work environment, the Port has established a workplace safety program. This program is a high priority for the Port. Its success depends on the alertness and personal commitment of all. It is each employee's responsibility to be familiar with, and observe all safety and health rules and procedures as outlined in the Port's *Accident Prevention Program and Safety Manual*. Safety procedures are managed currently by the Director of Operations at the Port. The Port provides information to employees about workplace safety and health issues through supervisor-employee meetings, bulletin board postings, or other written communications. Additionally, employees and supervisors receive periodic workplace safety training. The training covers potential safety and health hazards and safe work practices and procedures to eliminate or minimize hazards. Each employee is expected to obey safety rules and to exercise caution in all work activities. Employees must immediately report any unsafe condition or suspicious activity to the appropriate supervisor. Employees who violate safety standards, who cause hazardous or dangerous situations, or who fail to report or, where appropriate, remedy such situations, may be subject to disciplinary action, up to and including termination of employment. If an accident does occur, it must be reported to the immediate supervisor as soon as possible, regardless of severity or injury.

Injury Reporting Procedures: Washington Industrial Safety Health Act (WISHA) requires that the Port maintain records of all occupational illness and accidents which occur on Port property, or while conducting Port business. WISHA also requires that you report any illness or injury that occurs on the job, no matter how slight. Such reports are necessary to comply with laws and initiate insurance and Workers' Compensation benefits procedures. In the event of a workplace injury or near-miss accident, no matter how minor the injury or the near-miss accident may seem, the injured employee and/or employee witness must report the injury or near-miss accident to his/her supervisor immediately. Employees must complete a Port of Kennewick Accident/Injury Report and forward it to the designated Safety official of the Port, which is currently the Director of Operations. Forms are available in the Accident Prevention binder located in the work room. In the event an injury requires medical attention, the injured employee must inform the attending physician that the injury is work-related. The physician will then complete the required Labor and Industries form, which will be forwarded to the Port for further processing. Hospitalizations must be reported to L&I within 8 hours for in-patients.

Emergency Situations: Whenever emergency situations occur, all necessary efforts should be made to protect human life, then property, in that order, without endangering employees or the general public. As soon as possible after the emergency measures have been taken, the employee in charge is to complete an Incident Report and notify his/her immediate supervisor with the most complete details available concerning the incident. Incident Reports shall be forwarded to the Director of Operations and the Director of Finance/Auditor for purposes of processing insurance claims.

Attendance

In order to successfully function, the Port depends upon all employees to report to work regularly and on time. Failure to report unexcused absences from assigned work areas, chronic or excessive absences, tardiness or excessive rest breaks are unacceptable.

Employees are required to obtain authorization from the Executive Director in order to be absent from work. Failure to do so prior to an absence may result in progressive disciplinary action.

Anti-Harassment

The Port of Kennewick is committed to maintaining a work environment that is free of discrimination. In keeping with this commitment, the Port will not tolerate harassment of employees by anyone, including any supervisor, co-worker, vendor, client, or customer of the Port.

Harassment consists of unwelcome conduct, whether verbal, physical, or visual, that is based on a person's protected status, such as sex, color, race, ancestry, religion, national origin, age, physical or mental disability, medical condition, marital status, veteran status, citizenship status, or other protected group status. The Port will not tolerate harassing conduct that affects tangible job benefits, that interferes unreasonably with an individual's work performance, or that creates an intimidating, hostile, or offensive working environment.

All employees are responsible for helping to assure that the Port avoid harassment. If an employee feels they have experienced or witnessed harassment, they are to notify the Executive Director immediately. The Port forbids retaliation against anyone who has reported harassment.

The Port's policy is to investigate all such complaints thoroughly and promptly. To the fullest extent practicable, the Port will attempt to keep the complaints and the terms of their resolution confidential. If an

investigation confirms that harassment has occurred, the Port will take corrective action, including such discipline up to and including immediate termination of employment, as is appropriate.

Gratuities

No employee shall accept a fee, gift or any other item of value in the course of performing the employee's official duties, which is given and/or received with the hope or expectation of receiving personal favored treatment or other special consideration.

Outside Employment

Outside employment by Port employees may be allowed except under the following conditions:

- Constitutes a conflict of interest with assigned duties
- Is inconsistent or incompatible with assigned duties
- Conflict with employee's working hours, performance, assignments, or duties

No employees shall receive sick leave benefits or use vacation time as a result of an illness or injury incurred while employed by another employer.

Telephone Calls/Personal Business

While it may occasionally become necessary to conduct personal phone calls during a normal workday, employees are expected to make every effort to conduct personal business on their own time and to keep the number and length of personal calls to a minimum.

Use of Port Property

In the event it is necessary for an exempt employee to remove Port property from Port premises for use in another location for the performance of his/her duties, management may so authorize. Unauthorized use of Port equipment, supplies, etc. is not allowed.

Confidentiality

Although the Port District is a public body, some portions of Port business are required by law to be confidential. No employee shall reveal in any manner any confidential information, which may become available to him/her as a part of his/her employment with the Port.

Whistleblower Act

1. Policy - Purpose.

- 1.1 The Port strives to conduct its business in an open and law-abiding manner. Accordingly, employees are encouraged to bring to the attention of the Port (or other appropriate governmental official) any improper actions of Port officials and employees. The Port will not retaliate against any employee who makes a complaint of improper actions in good faith and in accordance with the procedures set forth in this policy.
- 1.2 A Port official or employee may not use his or her official authority or influence, directly or indirectly, to threaten, intimidate, or coerce a Port employee for the purpose of interfering with that

employee's right to disclose information concerning an improper governmental action in accordance with the provisions of this policy.

- 1.3 This policy is to implement the State's Local Government Whistleblower Protection Act, Chapter 42.41 RCW.

2. Definitions.

The definitions in this section apply throughout this policy unless the context clearly requires otherwise.

- 2.1 "Appropriate investigating official" means an investigating official acting within the official's respective jurisdiction as identified herein, or any assistant or representative authorized to receive documents on the official's behalf.
- 2.2 "Emergency" means a circumstance that if not immediately changed may cause damage to persons or property.
- 2.3 "Employee" or "Port employee" means any individual who is appointed as an officer or employee by the Port Executive Director. The term "employee" or "Port employee" also includes Port elected officials, the Executive Director, and members of Port boards, commissions, committees or other multi-member bodies.
- 2.4 "Good faith" means the individual providing the information or report of improper governmental action has a reasonable basis in fact for reporting or providing the information. An individual who knowingly provides or reports, or who reasonably ought to know he or she is providing or reporting, malicious, false or frivolous information or information that is provided with reckless disregard for the truth, is not acting in good faith.
- 2.5 "Gross waste of public funds" means to spend or use public funds or to allow public funds to be used without valuable result in a manner grossly deviating from the standard of care or competence that a reasonable person would observe in the same situation.
- 2.6 "Improper governmental action"
- 2.6.1 "Improper governmental action" means any action by a Port employee that is undertaken in the performance of the employee's official duties, whether or not the action is within the scope of employment, and:
- A. violates any state or federal law or rule; or Port ordinance, rule or policy, including but not limited to violations of Chapter 42.23 RCW, the Code of Ethics for Municipal Officers;
 - B. constitutes an abuse of authority;
 - C. creates a substantial and specific danger to the public health or safety; or
 - D. results in a gross waste of public funds.
- 2.6.2 "Improper governmental action" does not include personnel actions including but not limited to employee grievances, complaints, appointments, promotions, transfers, assignments, reassignments, reinstatements, restorations, reemployments, performance evaluations,

reductions in pay, dismissals, suspensions, demotions, violations of the local government collective bargaining and civil service laws, alleged labor agreement violations, reprimands, or any action that may be taken under chapter 41.08, 41.12, 41.14, 41.56, 41.59, or 53.18 RCW or RCW 54.04.170 and 54.04.180.

2.7 "Retaliatory action" means:

2.7.1 Any adverse change in a Port employee's employment status, or the terms and conditions of employment including denial of adequate staff to perform duties, frequent staff changes, frequent and undesirable office changes, refusal to assign meaningful work, unwarranted and unsubstantiated letters of reprimand or unsatisfactory performance evaluations, demotion, transfer, reassignment, reduction in pay, denial of promotion, suspension, dismissal, or any other disciplinary action; or

2.7.2 hostile actions by another employee towards a Port employee when such actions were encouraged by a Port supervisor or senior manager or official.

2.8 "Substantial and specific danger" means a risk of serious injury, illness, peril or loss, to which the exposure of the public is a gross deviation from the standard of care or competence which a reasonable person would observe in the same situation.

2.9 "Written report of improper governmental action" means any writing that alleges that an improper governmental action has occurred and describes the basis for that belief.

3. Right to Report - Procedures.

3.1 Right to Report. Every Port employee shall have the right to report in good faith, in accordance with this policy, information concerning an improper governmental action.

3.2 Time and Place. In reporting improper governmental action, the employee shall make a verbal or written report of such action to the appropriate investigating official, which shall include the Executive Director, the Port Auditor or the Port Attorney. A report of improper governmental action or of alleged retaliatory action shall be filed within six (6) months of the occurrence of the improper governmental action or alleged retaliation or of the date the employee reasonably should have known of the occurrence. The report must specify the improper governmental action or alleged retaliatory action and the relief requested.

3.3 Reporting Limits.

3.3.1. This section does not authorize a Port employee to report or disclose information or records that are subject to an applicable legal privilege against disclosure (e.g. RCW 5.60.060 and RCW 42.23, 070 regarding privileged communications) unless waived by the Port. And, nothing in this policy authorizes an individual to disclose information prohibited from disclosure by law.

3.3.2. An employee making a written report under this subsection is encouraged to wait at least thirty (30) days from receipt of the written report by the investigating official before reporting the improper governmental action to a person who is not an investigating official. However, reporting to a person who is not an investigating official before this thirty (30)-day period will not result in the loss of the protections in this policy.

- 3.3.3. An employee's reporting of the employee's own improper action does not grant the employee immunity from discipline or corrective action, including termination, insofar as the employee's improper action would be cause for discipline.
- 3.4 Protected Reporting. Any one or more of the following conduct by an employee is protected under this policy:
- 3.4.1. Reporting improper governmental action;
- 3.4.2. Cooperating in an investigation by any official related to improper governmental action, including but not limited to Port, local, state, federal and internal investigation; and
- 3.4.3. Testifying in any official proceeding, hearing or prosecution arising out of an improper governmental action.
- 3.5 No Retaliation. A Port officer or employee shall not retaliate, attempt to retaliate or threaten to retaliate against any employee because that employee has in good faith engaged in conduct protected by Port policy or because the Port officer or employee believes the employee has engaged or will engage in such conduct whether or not such conduct actually occurred.
- 3.6 Retaliation Subject to Action. Any Port officer or employee who engages in retaliatory action is subject to disciplinary action including but not limited to suspension without pay, demotion or termination. In addition, any elected official who engages in retaliatory action is subject to censure by motion of the Commission and also may be subject to recall from office due to misfeasance or malfeasance in office.
- 3.7 Cooperation with Investigation. All employees and elected officials have a duty to cooperate with investigations initiated under this policy. Further, all officers, employees and elected officials have a responsibility not to interfere with an investigation and to adhere to admonitions from investigators in this regard. Evidence shall not be withheld, destroyed or tampered with, and witnesses shall not be influenced, coached or intimidated.
- 3.8 Interim Controls.
- 3.8.1 If the investigating official determines that that the employee reporting improper governmental action has been retaliated against or is at great risk of retaliation, the investigating official may seek temporary preventive action, including but not limited to the transfer of the reporting employee to another department at the request of the reporting employee or authorizing leave with pay for the reporting employee. The investigating official's recommendation shall be made to the Commission, which shall additionally consider any recommendation of the Executive Director. Such a temporary preventative action may continue until the conclusion of any investigation and a permanent resolution of the matter.
- 3.8.2 In addition to other remedies available to reporting employees the Executive Director may, upon request, provide for limited paid leave or other consideration during the course of an investigation.

- 3.9 Action Plan. Any administrative remedy or order of relief shall include an action plan for addressing the improper governmental action and provide reasonable timelines for completing corrective actions.
- 3.10 Recusal of Commissioner. If the report of improper governmental action or any other misconduct is made against an elected official, that official shall recuse from any and all proceedings or matters related to the report. Provided, nothing in this policy shall preclude the official from the opportunity to respond to a report.

4. Confidentiality.

The identity of an employee reporting information about an or cooperating in an investigation of improper governmental action shall be kept confidential from all persons except for investigating officials and their staff, to the extent feasible. The Port cannot provide complete assurance that a person with direct facts of improper governmental action may not be required to support those facts in public records or testimony. And, the employee may waive confidentiality in a written waiver or by making his or her identity known in connection with the protected conduct in the course of public testimony or by acknowledging the employee's identity in a claim against the Port for retaliation.

5. Investigations – Additional Rights.

- 5.1 Application of Commission Rules. Any investigation under this policy shall follow the investigatory procedures set forth in the Port Commission Rules of Policy and Procedures, adopted February 22, 2011, or as later amended.
- 5.2 Reconsideration. If the reporting employee is not satisfied with the investigation and/or resolution of the report of improper governmental action, the reporting employee may request reconsideration in writing within five (5) working days of receipt of the Port's written response. Written requests for reconsideration must be submitted to the Chairperson of the Commission and must identify the specific elements of the Port's investigation or written response, which the reporting employee finds unsatisfactory. The Commission shall have fifteen (15) working days to advise the reporting employee in writing whether reconsideration will be granted. Any reconsideration will be limited to examination of the specific issues raised in the reporting party's written request. The Port, acting through the Commission or its delegate, shall have thirty (30) working days from the date reconsideration is granted to complete its additional investigation and provide the employee with a written response. The Commission may convene special meetings to meet the identified timeframes.
- 5.3 Strict Compliance. All employees must strictly follow this policy and its procedures. Employees who comply with this policy will not be subject to discipline or discharge for reporting, disclosure or other activities done pursuant to this policy.
- 5.4 Rights - Additional Rights Reserved.
 - 5.4.1 Reporting employees who are dissatisfied with the results of the internal review process may contact one or more of the following: the Kennewick Police Chief, the Benton County Prosecuting Attorney, the Office of the Attorney General or the Office of the State Auditor.
 - 5.4.2 This policy incorporates and recognizes the rights of reporting employees, after use of the Port's review process and final report of the Port under this policy, to all remedies available under RCW 42.41.040 (copy follows at end of this policy).

- 5.4.4 Nothing in this policy shall be construed as otherwise limiting the rights of a Port employee under other applicable law, including protection from retaliation for reporting a violation of Chapter 42.23 RCW, the Code of Ethics for Municipal Officers. See, in this regard, the Washington Supreme Court decision of *Hammond v. Spokane County*, 146 Wn.2d 699 (2002) (Court finds public employee cause of action for retaliatory acts in contravention of public policy, including Chapter 42.23 RCW).

6. Reporting of Investigatory Findings.

In the event a commissioner is found to have retaliated against an employee, the Commission shall take the action specified in Section 5 of the Commission's Rules of Policy and Procedure (February 22, 2011, or as later amended).

7. Conflict.

This policy is intended to operate as a supplement to the provisions of Chapter 42.41 RCW, and the Commission's Rules of Policy and Procedure. However, if there is an irreconcilable conflict between any of the provisions of this policy, state law or other Port policy, the provisions most favorable to the employee shall prevail.

8. Reporting and Whistleblower Form.

It is the policy of the Port to encourage reporting by its employees of improper governmental action taken by officers or employees and to protect employees who have reported improper governmental actions in accordance with the laws of the State of Washington. As per RCW 42.41.030, Port of Kennewick employees who become aware of improper governmental actions should report with the local government to the Executive Director. In the event the Executive Director is the subject of the Whistleblower claim, then employee should submit the report to Port Auditor. However, if the Executive Director and Port Auditor are subjects in the whistleblower claim then the employee can submit claim to the Port Commissioner(s).

Reports of improper governmental action(s) must be filed in writing with the Port of Kennewick. They can be reported using the Whistleblower Reporting Form, attached to this summary, or in a separate letter. In either case, the report should include:

- ☐ A detailed description of the improper governmental action(s).
- ☐ The name of the employee(s) involved.
- ☐ The agency, division, and location where the action(s) occurred.
- ☐ Date(s) of the improper governmental action must be provided to the Port within one year after the occurrence of the action.
- ☐ Details that may be important for our investigation -- witnesses, documents and evidence.
- ☐ If you know it, the specific law or regulation that has been violated.
- ☐ Your name, home address and phone number. (Optional)

Each improper governmental action should be noted separately and supported with as much specific information as possible. Proving allegations can often be difficult. Supplying detailed information contributes to a thorough and efficient investigation. The Whistleblower Reporting Form is designed to help

you supply the needed information. Please use a separate Whistleblower Reporting Form for each improper governmental action. **Whistleblower Reporting Form is described as Exhibit A of this manual.**

Avoid generalizations such as "Bob is always wasting public resources." Providing specific details about how and when "Bob" is wasting public resources will help focus the investigation, e.g., "Bob used his state computer to keep accounting records for his home business during working hours. This has been going on for a year."

Under state law, anyone who conducts a state employee whistleblower investigation must keep the whistleblower's name confidential. In addition, the law provides remedies for individuals subjected to retaliation as a result of their whistleblower activities and penalties for those who retaliate.

Send your Whistleblower Reporting Form or letter attention to the Executive Director, Auditor or Commission as described above and to:

Port of Kennewick
Attention: Employee Whistleblower Program
350 Clover Island Drive, Suite 200
Kennewick, WA 99338

9. Other Reporting.

In addition to the foregoing, the following government agencies and labor organizations may assist employees in dealing with personnel issues that are not covered by this Whistleblower Policy:

<u>Agency</u>	<u>Issues</u>
Washington State Human Rights Commission Olympia 1-800-233-3247 Spokane 1-509-456-4473 Yakima 1-509-575-2772 Seattle 1-206-464-6500 TTY 1-800-300-7525 http://www.hum.wa.gov	Discrimination because of race, creed, color, national origin, sex, marital status, age or disability. Sexual harassment. Whistleblower workplace reprisal or retaliatory action.
Public Employment Relations Commission Olympia (360) 753-3444 http://www.perc.wa.gov	Unfair labor practices. Interference with rights to form or join employee labor organizations and rights to bargain collectively.
Benton County Prosecuting Attorney 7320 W. Quinault Ave Kennewick, WA 99336 509-735-3591	Alleged improper governmental action

RCW 42.41.040**Retaliatory Action Unlawful -- Relief by whistleblower -- Penalty.**

- (1) It is unlawful for any local government official or employee to take retaliatory action against a local government employee because the employee provided information in good faith in accordance with the provisions of this chapter that an improper governmental action occurred.
- (2) In order to seek relief under this chapter, a local government employee shall provide a written notice of the charge of retaliatory action to the governing body of the local government that:
 - (a) Specifies the alleged retaliatory action; and
 - (b) Specifies the relief requested.
- (3) The charge shall be delivered to the local government no later than thirty days after the occurrence of the alleged retaliatory action. The local government has thirty days to respond to the charge of retaliatory action and request for relief.
- (4) Upon receipt of either the response of the local government or after the last day upon which the local government could respond, the local government employee may request a hearing to establish that a retaliatory action occurred and to obtain appropriate relief as defined in this section. The request for a hearing shall be delivered to the local government within fifteen days of delivery of the response from the local government, or within fifteen days of the last day on which the local government could respond.
- (5) Within five working days of receipt of the request for hearing, the local government shall apply to the state office of administrative hearings for an adjudicative proceeding before an administrative law judge. Except as otherwise provided in this section, the proceedings shall comply with RCW 34.05.410 through 34.05.598.
- (6) The employee, as the initiating party, must prove his or her claim by a preponderance of the evidence. The administrative law judge shall issue a final decision consisting of findings of fact, conclusions of law, and judgment no later than forty-five days after the date the request for hearing was delivered to the local government. The administrative law judge may grant specific extensions of time beyond this period of time for rendering a decision at the request of either party upon a showing of good cause, or upon his or her own motion.
- (7) Relief that may be granted by the administrative law judge consists of reinstatement, with or without back pay, and such injunctive relief as may be found to be necessary in order to return the employee to the position he or she held before the retaliatory action and to prevent any recurrence of retaliatory action. The administrative law judge may award costs and reasonable attorneys' fees to the prevailing party.
- (8) If a determination is made that retaliatory action has been taken against the employee, the administrative law judge may, in addition to any other remedy, impose a civil penalty personally upon the retaliator of up to three thousand dollars payable by each person found to have retaliated against the employee and recommend to the local government that any person found to have retaliated against the employee be suspended with or without pay or dismissed. All penalties

recovered shall be paid to the local government administrative hearings account created in RCW 42.41.060.

- (9) The final decision of the administrative law judge is subject to judicial review under the arbitrary and capricious standard. Relief ordered by the administrative law judge may be enforced by petition to superior court.

Utilization of Port Online Service

Any actions not expressly permitted are expressly prohibited.

Access to on-line services from Port equipment should be through the Port's authorized service provider(s). This may entail long distance charges when portable computers are taken out of town.

On-line services access through the Port's provider(s) was established for business purposes only.

All port on-line services accounts, including e-mail accounts, are property of the Port and public records.

All on-line service access is subject to monitoring, tracking, and reporting. Persons accessing on-line services should have no expectation of privacy when utilizing on-line services.

Files may be downloaded from on-line services but must be stored on a local (non-network) disk drive and virus checked before being utilized on the network.

In order to be provided access authority to on-line services through the Port's equipment and service provider, employees must sign a statement they have read and understand this policy.

No e-mail shall be sent that would embarrass, humiliate, or incriminate an employee or the Port if made public. Employees shall avoid criticism of supervisors, co-workers, and subordinates in e-mail transmissions.

No e-mail messages shall be sent that violates the Port policy against harassment of any kind, including messages that contain words, phrases, or sentiments prohibited by the Port's anti-discrimination policy.

E-mail should not be used for purely personal messages, or to redistribute messages or material an employee finds amusing.

E-mail should be used solely for Port business. Use of e-mail for any other purpose could result in disciplinary action.

E-mail messages relating to administrative details (e.g. date, time of meetings, etc.) should be deleted on a regular basis, consistent with the Port's record retention and destruction policies. E-mail messages containing significant project-related data that are subject to the Port's record retention schedule should be moved to the electronic storage archives.

Each e-mail message being sent outside the Port should contain the following:

"This internet e-mail may contain confidential, privileged information intended only for addressee. Do not read. Copy or redistribute it unless you are the addressee. If you have received this e-mail in error, please call us (collect) immediately (509) 586-1186 and ask to speak to the message sender. Thank you for your assistance."

Group Benefit Plans

Life Insurance/Long Term Disability (LTD)

Non-exempt employees, exempt employees and Commissioners shall be entitled to life and long term disability insurance at the expense of the Port, at levels of coverage established from time to time by the Board of Commissioners.

Mandated Benefits

Non-exempt employees, exempt employees and Commissioners shall be entitled to participate in the Washington state Public Employee's Retirement System, the Social Security system, the State Industrial Insurance program or such other programs as may be required by state or federal law. Employee deductions and employer contributions shall be as prescribed by such laws.

Medical Insurance

Non-exempt employees, exempt employees and Commissioners shall be entitled to medical coverage at the expense of the Port, at levels of coverage established from time to time by the Board of Commissioners.

Departing commissioners and staff have the option of continuing health insurance coverage through Port of Kennewick for a maximum of sixty (60) days allowing time for alternative insurance coverage to become effective.

Other Benefits

Deferred Compensation Program: All employees may apply to enroll in the Washington State Department of Retirement Systems Deferred Compensation Program or Non-State Affiliated 401K Option Plan at the inception of their employment with the Port of Kennewick. Employees may dedicate contributions up to the maximum allowable amount of their pre-tax income to be paid into the fund on each pay date.

Upon completion of one full year of employment with the Port, all employees shall be deemed eligible by the Port Commission to receive a matching retirement benefit of up to three (3) percent of the employee's base salary into the Washington State Department of Retirement Systems Deferred Compensation Program or the Non-State Affiliated 401K Option Plan. Any investment into this plan by a Port employee is absolutely voluntary. Once the Port match is contributed to the plan, it shall be treated in the same manner as all contributions and invested at the direction of the employee.

Health Care Reimbursement Program: Port of Kennewick ("Employer") has adopted the HRA VEBA Medical Reimbursement Plan for Public Employees in the Northwest ("Plan"). Employer shall contribute to the Plan on behalf of all non-represented employees ("Group") defined as eligible to participate in the Plan. Each eligible employee must submit a completed and signed Enrollment Form to become a Plan participant and be eligible for benefits under the Plan.

Port of Kennewick's Policy Manual shall be amended to reflect the Port will offer a \$1,200 incentive to all employees and Commissioners that elect the lowest cost health insurance plans to the Port of Kennewick. This \$1,200 is intended to provide for the reimbursement of qualified out-of-pocket medical cost. To provide for this reimbursement tax-free, the Port will contribute \$1,200 to the HRA VEBA plan. There will be no option for the \$1,200 to be paid out in cash. The Contribution shall be paid out no more than once a year to the HRA VEBA plan.

Contributions on behalf of each eligible employee shall be based on the following selected funding sources/formulas:

Eligibility is limited to employees selecting lower cost medical insurance coverage as identified by the Port of Kennewick's Director of Finance/Auditor and providing proof of coverage of the lower cost medical insurance plans. Employer shall contribute \$1,200 to the Employee's HRA VEBA account upon approval by the Director of Finance/Auditor

The term of this Employer Policy shall be open until amended or changes by the Port of Kennewick Commission.

Miscellaneous Benefits:

Upon completion of one full year of employment with the Port, all employees shall be deemed eligible by the Port Commission to receive up to \$70 towards a Port approved disability or other plan as approved by the Executive Director. Any investment into this plan by a Port employee is absolutely voluntary.

All employees and Commissioners can elect at their own expense to join alternative benefit plans such as Employee Owned Group Insurance Plans, Aflac plans and others if approved by the Executive Director and Director of Finance/Auditor.

Upon agreement with employee, other benefits described in this section will be automatically deducted from the employees pay check.

Maintenance Position Benefits:

The Port shall purchase or reimburse the full-time Maintenance Employees for necessary clothing to perform their daily duties, not to exceed \$500 annually. This includes, but is not limited, to work boots, work pants and work shirts. Items requested to be reimbursed or purchased are subject to Port Auditor's approval and inspection.

TRAVEL POLICY

Overview

The purpose of this policy is to establish or update the basic rules and regulations governing the reimbursement and payment of travel and other business expenses incurred by the Port Commissioners, officers, employees and other authorized representatives. It shall be the policy of the Port of Kennewick that all Port officials and employees shall receive their reasonable and necessary expenses incurred on behalf of the Port within or outside the district. This resolution is adopted pursuant to the authority of RCW 42.24.080 through 42.24.160 and 53.08.175 and 53.08.176. The term "authorized representative," as used throughout this resolution, shall include all Commissioners, officers, employees, or agents whether elected or appointed.

Expenses

Travel expenses shall be defined to include the following items:

Lodging

Lodging includes hotels, motels or similar accommodations as may be required. A receipt verifying such expense shall be submitted for any request for reimbursement.

Lodging expenses shall include all necessary and reasonable expenses such as room charges, parking fees, tips and tax.

Discretionary lodging expenditures such as video rentals, bar charges unless considered an appropriate promotional hosting expenditure and more than one personal phone call of reasonable length per day are not reimbursable by the Port, unless approved by the Commission.

Lodging reservations may be made directly by the Port or its designated travel agent, or the authorized representative.

Reimbursement will normally be at a single room rate with justified exceptions approved by the commissioners for additional costs incurred for lodging of spouses or others that may be accompanying the authorized representative.

Meeting/Conference Registration

When attending meetings, conferences or training activities where lodging and meals are included in the registration, authorized representatives shall utilize the lodging and meal plan provided when feasible. If the lodging and/or meals are optional and not selected at the time of registration, the Port will reimburse up to the actual cost of the respective options.

Miscellaneous

The Port of Kennewick will provide reimbursement to Commissioners and staff for reasonable miscellaneous travel expenses. Such expenses include but are not limited to valet, bag service, housekeeping, laundry/dry cleaning charges, telephone, facsimile and internet services, baggage and luggage handling charges, parking fees, cab, bus and other transportation charges, stenographic charges, tips for normal hospitality practice, secretarial and other reasonable charges permitted by law, provided that said expenses shall not exceed \$40 per day. Receipts must be attached for any item in this category of \$25 or more.

Promotional Hosting

Promotional Hosting is covered in Port of Kennewick Resolutions 76-6, 93-4 and 2001-13.

Subsistence

Includes charges for all meals, including payment of reasonable tips, when traveling outside the district, or attending port related meetings or functions that include meals within the district. Expenses shall be reimbursed at the actual cost of the meal with the support of an itemized receipt if receipt is available. In case itemized receipt is not available, the Port may reimburse the actual cost of the meal based on valid supporting documentation deemed by the Port Auditor.

Transportation

Transportation via official motor vehicle; private automobile and aircraft; public transportation (airline, railroad, bus line, ferry or steamship); taxicab; limousine; rented vehicle; or other appropriate means of transportation:

When private vehicles are used, the authorized representative receives a monthly allowance as established by the Executive Director as adopted by Resolution 2011-27 on July 26th, 2011. The following monthly shall be provided (all sums net):

Executive Director:	\$400
Director of Governmental Affairs:	\$350
Other Directors and Real Estate Manager:	\$300
Other Staff:	Not to Exceed \$150 per month

Employees must submit valid proof of insurance on an annual basis to Port Auditor. No reimbursement, allowance or any other form of payment shall be made by the Port to an employee for 1) parking tickets, 2) towing or impound fees, 3) traffic violations, 4) automotive repairs, and 5) other vehicle expenses. For an employee receiving the allowance, IRS reimbursement will only be paid for extraordinary out of town travel (outside of Benton, Franklin, and Walla Walla Counties, Washington). The Port of Kennewick permits combining personal travel with business travel, provided that employee clearly disclose any personal travel and/or annual leave time to be taken in conjunction with business travel and pro-rate such travel as appropriate under the circumstances. The allowance shall be paid monthly and treated as normal income with appropriate deductions withheld. The allowance shall be adjusted annually at a rate of 3.6 percent which is in accordance with the Bureau of Labor Statistics last twelve months Consumer Price Index for all index items released on Friday, July 15, 2011. With approval of the Executive Director, an individual entitled to an allowance may seek the IRS reimbursement rate in lieu of the allowance, as long as the Executive determines this would provide a cost savings to the Port. This policy may be rescinded or amended at any time by the Board of Commissioners.

Mileage reimbursement for employee use of privately owned vehicles for official business of the district shall be substantiated on an appropriate form, as prescribed by the statute, showing destination, the specific business purpose of the trip, and the total miles traveled. Port employees and Commissioners shall also receive an allowance or actual reimbursement of cost incurred for auto cleaning if using own personal vehicles. This Auto allowance shall not exceed \$40 a month. Auto allowances are subject to Executive Director's approval. Actual reimbursements are subject to Port Auditor's approval based upon valid Port travel and/or legitimate Port tours or other Port hosting events where personal vehicles are used.

Ordinarily, rail, bus, air or steamship tickets may be purchased directly by the Port under a regular purchase order procedure, or by the authorized representative. If, however, an authorized representative purchases a ticket on his/her own behalf, a receipt shall be submitted with the voucher seeking reimbursement.

Authorized Port air travel will be at coach class or equivalent, unless prior approval is obtained from the Commission.

In cases where discount airfare can be purchased, the Port may reimburse the authorized representative for expenses for lodging and food to stay over an extra night or the weekend up to the difference in cost of the non-discount airfare.

Travel awards such as frequent flyer mileage and certificates for travel when bumped from a flight will be recognized as personal property of the authorized representative. In no instance should the acquisition of such awards cause the Port to incur additional expense.

In the case of a rental car or other form of transportation, the Port can reimburse the employee for those actual cost incurred as long as it is less than the cost of other alternative transportation.

Forms

In filing claims for reimbursement for travel and other business expenses, authorized representatives shall use a form consistent with statute and approved by the Port Commission. This form shall contain, at a minimum, details by date showing expenses for transportation, lodging, subsistence and other miscellaneous and general expenses as defined in Section 3d. Such receipts, documents and other evidence as may hereinafter be required shall support such forms. The Executive Director shall approve requests for reimbursement of expenses submitted by staff. The Port Auditor shall approve request for reimbursement of expenses submitted by the Executive Director. The Commission shall approve requests for reimbursement of expenses submitted by a Commissioner.

Official Travel Defined

Port Commissioners, employees and agents shall be engaged in official travel on behalf of the Port district when engaged in the following activities:

Travel connected with calling upon customers or potential customers of the port district for the purpose of promoting and selling the services and use of facilities of the port district.

Travel required for the purpose of meeting, negotiating or consulting with others for the purpose of carrying out official functions, duties or projects of the port district. Examples of travel include, but are not limited to, meetings or conferences on matters related to:

- navigation, harbor and waterway improvement;
- planning, engineering or development of Port facilities;
- employee relations;
- Port rates and tariffs;
- inspection of facilities or equipment of tenants or potential tenants;
- public relations and information;
- industrial development;
- other similar activities necessary to Port development, construction, maintenance or operation;

Travel connected with training and with attendance at meetings of organizations in which the port district holds memberships, or with which it is officially affiliated for purposes of education, research, development, promotion or joint action.

Travel for attendance at regular and special meetings of the Port Commission by Port Commissioners from their place of residence to the place of meeting of the Commission.

No reimbursement shall be made to employees for the normal cost of commuting from a permanent or temporary home or residence to their regular place of work.

Travel Authorization

It is a policy of the Port to limit travel expenses to only those necessary and appropriate for the benefit of the Port. All travel shall have a specific purpose and have a benefit to the Port. Travel for Port Commissioners must be approved in advance by the Port Commission either through the approved budget; Commission Organization Representation; through a motion passed by the Port Commission; or, in the event of an

emergency, by the Port Commission President. When multiple Commissioners may request Port-related travel for an activity, the Port Commission President shall approve which Commissioner(s) attend unless determined otherwise by a quorum of the Commission.

The Commissioners must approve all international travel by anyone. The Port Executive Director or Port Auditor (in absence of Executive Director) shall approve in advance all domestic travel by employees.

When Port business and personal travel are combined in one trip, the Port will pay the cost associated with the Port's portion of the travel. The Port will not reimburse for any cost of a trip if Commissioner/employee is traveling for work unrelated to the Port, whether the work is paid or volunteer.

- In order that the Port may maintain adequate accounting and internal controls of expense reimbursement, if a Commissioner/employee is employed (or has source of funding) other than by the Port, and seeks reimbursement for any Port-related travel expenses, such Commissioner/employee must disclose consistent with Section 3.14.2 of Commissioner Rules of Policy and Procedure, any outside source of expense reimbursement or other payment, to the Port auditor. An expense reimbursement expense will not be processed for payment by Port in the absence of such additional information and supporting documentation that demonstrates with sufficient detail that no other source of funding was involved with the particular travel.
- By requesting reimbursement, the Commissioner/employee authorizes the Port auditor to contact the other employer (or source of funding) and to receive from that employer (or source of funding) such information and/or documentation as deemed necessary to the Port Auditor to confirm the availability of Port reimbursement consistent with this policy. In the absence of such supporting information and/or documentation, the Port shall not be obligated to process a request for expense reimbursement.
- If other outside source travel arrangements are made along with Port travel, this shall be disclosed in advance along with detail account of travel (e.g., date, time, duration, location) and any third party confirmation showing details of travel (e.g., date, time, duration, location) to allow Port Auditor to determine what is valid Port travel and what is not. Travel plans shall identify what reimbursement will be requested for meals, mileage, and hotel accommodations, and for what dates. Travel plans shall include, but not limited to, date and time leaving, travel time duration, meeting date time and location, duration of meetings, travel to and from other meetings (travel time duration and meetings), requested meal reimbursements and any split meal reimbursements, hotel reimbursements and any split hotel reimbursements, mileage reimbursement and any split mileage reimbursements.

With forms requesting expense reimbursement, Port Commissioners and employees shall provide proof of attendance at all meetings for which expense reimbursement has been requested. Proof of attendance may include, but is not limited to, signed written statement by third party who acknowledge Commissioner/employee attendance, signed in/out sheet provided at events/meetings by third party, GPS locator printout, or other forms approved by Port Auditor.

Other Business Expenses

When properly authorized, Port Commissioners, employees, officers and representatives shall be entitled to their necessary and reasonable business expenses as set forth in Section 3 above incurred on behalf of the port district. Such business expenses shall include the cost of attending regular meetings of official groups

in which the port district holds memberships or is otherwise affiliated for the purposes of promotion, development, education, research or joint action. Such expenses shall include charges for registration, meals, printed matter, or such other items as may be necessary in order for the officer or employee to participate in the official proceedings of such properly authorized group. In order that such business expenses may be allowed, however, it must be shown that the meeting was attended for a legitimate business purpose.

With approval from the Port Executive Director, reimbursement for recognition awards of nominal value shall be allowed. Examples of this type of award may be plaques or small gifts recognizing outstanding service or longevity of service.

No reimbursement shall be made for the cost of memberships, dues, subscription, etc. in cases where the cost could more appropriately be paid directly by the district. It is, however, recognized that certain memberships, dues, subscriptions, licenses, etc. must be paid directly by the employees because of professional, trade, organization, or other requirements. Authorized reimbursement shall be made for the cost of memberships, dues, subscriptions, trade or professional licenses, etc. when incurred for the benefit of the district, and when such costs must be paid directly by the employee. Receipts or other satisfactory evidence of payment must substantiate the cost of such memberships, dues, subscription, licenses; etc.

Request for reimbursement of cost to attend functions sponsored by a local business, professional, or civic organization, are reimbursable if such attendance benefits the Port and has been properly authorized.

Coffee, tea, soft drinks and candy provided by the Port to its business associates shall be made available to the employees.

When employees are asked to work through normally scheduled meal times, food costs are reimbursable.

All other expenditures incurred by employees that are incidental to the performance of the employees' duties or increases the employees' knowledge or skills required to perform the duties are reimbursable. Incidental expenditures under this paragraph shall be subject to approval by the Port Executive Director or Commissioners prior to the expenditure being made.

When an employee is meeting with a business associate of the Port during normal meal times, the Port may pay the cost of the meal for both the employee and the business associate(s).

Use of Credit Cards

General-purpose credit cards in the name of the Port may be issued to authorized employees for the purpose of covering expenses incidental to travel on official business of the Port district or other authorized uses including the acquisition of equipment and supplies used by the Port, or Port employees in carrying out their Port related work. Such cards shall be used and charges accounted for strictly within the provisions of the RCW related to credit card usage by special districts. Except for the Executive Directors card that is currently set at a maximum of \$10,000 credit limit, no individual card may exceed a \$5,000 credit limit.

If credit cards are used, no payment shall be made to a credit card company until each employee using the card has certified that all items of expenses incurred under the credit card are just, due, and unpaid obligations against the Port of Kennewick and the vouchers have been audited and found to be in order. Billings paid shall be clearly recorded by the Port.

Credit cards issued in the name of the Port shall not bind the Port to payment of sums resulting from the improper use of such credit cards by employees.

Oil company credit cards acquired in the name of the Port are to be used for the purchase of motor fuel and related items for port-owned vehicles or rental cars. Receipts for such purchases are to be submitted to the Port Auditor.

Telephone company credit cards acquired in the name of the Port are to be used for the transaction of district business. Telephone calls of a personal nature shall be reimbursed immediately on billing, unless authorized under section 3b2 of this resolution.

The Port shall have prior lien against and a right to withhold any and all funds payable to such Port employee up to an amount of any disallowed charges and interest at the same rate as charged by the company that issued the credit card. A Port employee who has been issued a credit card by the Port shall not use the card if any disallowed charges are outstanding and shall surrender the card upon demand of the Port Executive Director.

The Port shall have unlimited authority to revoke the use of any credit card issued and, upon such revocation order being delivered to the credit card company, shall not be liable for any costs.

Miscellaneous

Port representatives traveling together shall submit separate vouchers and verification. However, on occasions when Port Commissioners or staff is attending activities together, one Port Commissioner or staff member may pay for authorized expenses for the Port Commissioners or staff and request reimbursement for his/her authorized expenses and those of the other Port Commissioners or staff. Claims for reimbursement of travel and business expenses shall be submitted on forms approved by the Port Auditor

TELEPHONE/FAX/INTERNET ALLOWANCE POLICY

Overview

This policy would allow the Port to meet IRS regulations and its fiduciary responsibility to the taxpayers, by providing guidelines for the use of cell phones, home internet and home fax for business purposes.

Policy

As approved in resolution 2006-11, the Port will not own cell phones for the use of individual employees and/or Commissioners. Employees and Commissioners whose job duties include the frequent need for a cell phone may receive an allowance in the amount of fifty dollars a month for non-data phones and ninety dollars a month for data phones to cover business-related cell phone expenses. If the employee or Commissioners can provide sufficient evidence the business use of their cell phone is in excess of fifty dollars for non-data phones or ninety dollars for data phones, the amount allowed will be established by the Port Auditor.

Cell phones should not be selected as an alternative to other means of communication -- e.g., land-lines, pagers, and radio phones -- when such alternatives would provide adequate but less costly service to the Port.

Employees and Commissioners whose job duties include working from home shall include a home internet and home fax allowance not to exceed fifty-five dollars a month or reimbursement of actual expense if invoice from vendors is provided to Port Auditor for payment. If the employee or Commissioner can provide sufficient evidence the business use of their home internet and fax line is in excess of fifty-five dollars, the amount allowed will be established by the Port Auditor.

Employees and Commissioners may be allowed an allowance for one-time purchase of cell phone and/or computer to perform necessary work at home for business purposes. A printer may be purchased at the discretion of the Executive Director, however, is subject to audit by the Port Auditor and shall be tagged and inventoried as per Port procedures. Furthermore, printer paper and ink may be purchased at the discretion of the Port Auditor. This allowance policy shall be established by the Executive Director and audited by the Port Auditor. Employees and Commissioners shall not be reimbursed for allowances if the Employee or Commission is being reimbursed or paid through external third party sources for their phone, internet, computer, or fax.

Responsibilities

Employees and Commissioners will be responsible for entering into a contract for cellular service with the provider of their choice. The Port will not be responsible, in any way, for employee's personal cellular phone and/or associated services, regardless of the type of use, including inappropriate charges, a lost/stolen phone or delinquent payments.

Each employee or Commissioner will immediately report the number of the cellular phone to the Port Auditor. The employee or Commissioner will carry the phone during business hours and when it is reasonably determined that there is a business need, or when normal communication links are not available.

The Port retains the right to periodically review the employee's or commissioner's need for a cellular phone allowance and may cancel the allowance due to lack of business usage, changes in employee work-related responsibilities, or absences exceeding one month, such as employee leave, Short Term Disability or extended leave under the Family and Medical Leave Act if applicable.

PORT OWNED VEHICLE POLICY

Overview

The purpose of this policy is to establish criteria and guidelines for the procurement and use of port owned vehicle.

Under the direction of the Board of Commissioners the Port of Kennewick may acquire, own and use vehicles deemed necessary for the general transportation requirements of the Port. Use of Port owned vehicles shall be only for conducting official port business.

Purchase

Only the Executive Director may be authorized to purchase a vehicle for the Port, after receiving budget authorization from the Port of Kennewick Board of Commissioners.

Use

The Port recognizes commissioners, employees and authorized port agents are required to travel from time to time on port related business. Port owned vehicles may only be used by commissioners, employees and authorized port agents while conducting official port related business, as deemed appropriate by the Executive Director.

Commissioners, employees and authorized port agents may use a port owned vehicle for travel on port related business when a port owned vehicle is available. If a port owned vehicle is not available or it is not feasible to use the port owned vehicle, then commissioners, employees and authorized port agents may use their personal vehicles for port related business and shall be compensated for such use defined in the Travel Policy in the Transportation section per mile standard for actual miles driven.

All mileage reimbursement requests shall be submitted to the port auditor on an approved form for Board of Commissioner approval.

Commissioners, employees and authorized port agents may check out port owned vehicles for port related business whenever a vehicle is available. If more than one user has reserved the same vehicle for travel at the same time, the Executive Director shall assign the priority use of the vehicle.

Port owned vehicles will be kept at the port administration office or other locations designated by the Executive Director.

Each port owned vehicle shall have a logbook. When the vehicle is checked out the commissioner, employee or authorized agent shall record in the vehicle logbook the following:

- Name of user
- Date(s) of use
- General purpose of port related business
- Destination
- Round trip mileage

Commissioners, employees or authorized agents using port owned vehicles must possess a valid Washington State Driver's license when operating port owned vehicles.

Commissioners, employees or authorized agents using port owned vehicles are responsible for the payment of all fines, fees or costs as a result of any traffic or parking violations or infractions associated with the use of said vehicles.

Accidents involving port owned vehicles shall be reported to the Executive Director as soon as reasonable possible and no later than forty-eight (48) hours after such accident.

VEHICLE COMPENSATION POLICY

Overview

The purpose of this policy is to establish standards for compensating employees for the use of their personal vehicles for port related business.

The Port recognizes employees are required to use their personal vehicles from time to time as a normal and routine function of their work on behalf of the Port. In addition, port employees may be subject to being called away from their homes or elsewhere to attend to Port related business, or to respond to urgent matters or emergency situations related to the Port.

In order to appropriately compensate employees for the use of their personal vehicles for port related business the Port of Kennewick has established a vehicle compensation allowance policy.

Vehicle Compensation

All Commissioners and port employees are eligible to participate in the vehicle compensation allowance program and be compensated for the use of their personal vehicle for port related business as defined in the Travel Policy in the Transportation section.

All mileage reimbursement requests shall be submitted to the Port Auditor on an approved form before payment is processed for Board of Commissioners approval.

WELLNESS PROGRAM POLICY

The Port of Kennewick encourages all staff to participate in wellness programs. Participation in the Port of Kennewick's wellness program is open to regular full-time employees and Commissioners and is a voluntary program. In order to be eligible for reimbursement of a portion of the membership dues, the employee or Commissioner must provide the Auditor with proof of wellness expenditure. Reimbursement is further limited to \$100 per employee or Commissioner per month. The Port of Kennewick retains the right to change all aspects of its wellness program and to discontinue their existences.

INSURANCE POLICY

Acquisition of Insurance Policies. All persons or entities entering into a business or other relationship with the Port (Persons or Entities), shall, at their sole cost and expense, procure and maintain, or cause to be procured and maintained, policies of insurance as deemed appropriate by the Executive Director with consultation of the Port Attorney. The insurance shall be subject to the Executive Director's review and approval, which approval shall not be unreasonably withheld. The insurance shall name the Port as an additional insured.

Types of Required Insurance. Persons or Entities shall procure and maintain the types of insurance deemed appropriate to the Executive Director with consultation of the Port Attorney, and shall be in the amounts deemed appropriate under the circumstances, in the discretion of the Executive Director, considering levels of inflation, risk of loss, premium expenses, and other relevant factors subject to the Port's written consent. Policy limits may be reviewed annually and may be adjusted, on a case by case basis. Insurance forms and limits of liability may include, but shall not be limited to:

- A. Commercial General Liability Insurance. For projects of work, commercial general liability insurance covering all claims with respect to injuries or damages to persons or property sustained in, on or about the property and the appurtenances thereto with limits of liability no less than One Million Dollars (\$1,000,000) per occurrence and Two Million Dollars (\$2,000,000) aggregate. For projects or work valued at \$50,000 or less, limits of liability shall be no less than One Hundred Thousand Dollars (\$100,000) per occurrence and Three Hundred Thousand Dollars (\$300,000) aggregate.

- B. Physical Property Damage Insurance. Physical damage insurance covering all real and personal property, but excluding property owned by subtenants and paid for by subtenants or paid for by lessee for which subtenants have reimbursed lessee, located on or in, or constituting a part of, the Property, in an amount equal to at least one hundred percent (100%) of the new replacement cost of all such property (or such lesser amount as the Port's may approve in writing).
- C. Builder's Risk Insurance. During construction of any improvements on port property, and during any subsequent restorations, alterations or changes in the Property that maybe made by Tenant at a cost in excess of Fifty Thousand Dollars (\$50,000) per job, builder's risk insurance upon the entire work on the property in the amount of one hundred percent (100%) replacement value thereof against "all risk" of physical loss or damage to the property insured, including earthquake and flood.
- D. Worker's Compensation Insurance. Workers' compensation and employer's liability insurance in respect of any work by employees of Lessee on or about the Property, as required under applicable law.

FLOWER POLICY

The Port can purchase flowers, gift basket or gift card for employees/commissioners or others with a connection to the Port, such as tenants, provided that flowers, gift basket or gift card will be presented only under special circumstances such as funerals, birthdays, etc., further provided that the cost of any flower arrangement, gift basket or gift card does not exceed \$100. Approval may be granted by the Executive Director or Finance Director only.

EXHIBIT A**WHISTLEBLOWER FORM**

Before filling out this form, please read the following:

- You cannot be the subject of retaliatory action for submitting this form.
- In order to protect your identity, we do not recommend sending this form to our office via electronic mail.

If you have any questions, please contact the Port Auditor or Executive Director.

Your contact information:

You are not required to provide your name. However, if you choose not to provide your name, we are unable to keep you updated on the progress of our investigation, or to consult with you regarding the details of your complaint. If you choose to provide your name, we will keep it confidential.

Name	Agency	Date
Home or mailing address	Division	Day phone
	Address	Night phone
	Current position	Best time and number to call

Subject's contact information:

Please file a separate form for each Port employee or officer who you believe has engaged in improper governmental action.

Name	Agency	Division
Position	Location	Phone
Subject's Supervisor(s)	Supervisors Position(s)	Supervisor's Phone

How do you know about the information you are disclosing here? If you do not choose to provide your name, please take care in providing this information, to prevent inadvertent disclosure

What type of improper governmental action are your reporting?

- ☐ Violation of state law or regulation
if so which RCW(s) or WAC(s)? _____
- ☐ Substantial and specific danger to the public health and safety
- ☐ Gross waste of public funds

**Is there any evidence that supports your assertions that can be reviewed?
If so, where is the information and can you provide it?**

Please describe the improper governmental action in detail

The more detailed information you provide for us, the better we will be able to assess your concerns. Attach additional pages if needed. If available, please provide us with copies of documents which support your assertion.

Improper governmental action cannot be personnel related.

When did the event(s) take place?

Where did the events(s) occur?

Are there other witnesses? If so, please provide their names, telephone numbers, positions, agencies, divisions, contact information, and relation to the improper governmental action.

Have you reported this information to another agency? ☐ Yes ☐ No

If so, which one(s)?

If you have disclosed the information reported here, what is the current status of the matter?

Please mail this form to:
Port of Kennewick
Attn: Employee Whistleblower Program
350 Clover Island Drive, Suite 200
Kennewick, WA 99336

EXHIBIT B**DRUG AND ALCOHOL-FREE WORKPLACE POLICY****1. PURPOSE AND GOAL**

The Port of Kennewick (the “Port”) recognizes that the state of an employee’s health affects his or her job performance. Use of alcohol or other controlled substances can cause decreased efficiency and increased risk of injury to the employee who is using or to the employee’s coworkers and the public. The purpose of this statement is to identify the Port’s policies on the use of controlled substances, alcohol, and medicines in order to maintain a healthy and drug and alcohol-free workplace for all employees. The goal is to ensure that employees report to work in condition to perform their duties safely, satisfactorily, and efficiently in the interest of their fellow workers, the public, and themselves.

This notice supplements, and does not replace the Port’s Personnel Policies and Procedures Handbook applicable to employees of the Port.

2. COVERAGE AND APPLICABILITY

- 2.1 Any individual who conducts business for the Port is covered by this Drug and Alcohol-Free Workplace Policy. Coverage of this policy includes, but is not limited to, executive management, managers, supervisors, full-time employees, part-time employees, off-site employees, contractors, volunteers, and interns.
- 2.2 All Port employees must, as a condition of employment with the Port, abide by the items of this policy.
- 2.3 The Port’s Drug and Alcohol-Free Workplace Policy is intended to apply whenever a covered individual is conducting business for or representing the Port. Therefore, this policy applies during all working hours, when covered individuals are conducting business or representing the Port, while covered individuals are on-call or while on paid stand-by, while covered individuals are on Port-owned premises or premises operated by the Port, and at Port-sanctioned events (see Section 2.4 for exception). If the employee is on the list of emergency contact(s) and cannot perform their duties due to potential violation in this policy, the employee is responsible for calling the next employee listed on the emergency contact list.
- 2.4 Port-sanctioned wine or beer-tasting or Port-sanctioned social events on or off Port premises to promote economic development are not a violation of this policy. However, wine or any other alcohol, should not be consumed during work hours, while conducting business or representing the Port, on Port premises, or at Port-sanctioned events unless the consumption of alcohol has been approved in advance of the event by the Executive Director. Covered individuals should also keep in mind that they are expected to conduct themselves in a manner appropriate to the event.

3. PROHIBITED BEHAVIOR

- 3.1 All covered individuals are prohibited from using, possessing, manufacturing, distributing, dispensing, or being under the influence of any controlled substances in the workplace, during working hours, while on Port premises or while engaging in Port business.
- 3.2 All covered individuals are prohibited from manufacturing, distributing or being under the influence of alcohol in the workplace, during working hours, while on Port premises or while engaging in Port business.
- 3.3 All covered individuals are prohibited from using, possessing, smelling of, or dispensing alcohol in the workplace, during working hours, while on Port premises or while engaging in Port business.
- 3.4 Any covered individual who is taking a drug or medication, whether or not prescribed by the covered individual's healthcare provider, which may adversely affect that covered individual's ability to perform work in a safe or productive manner, is required to report such use of medication to his or her supervisor. This includes drugs and medications that are known or advertised as possibly affecting judgment, coordination, or any of the senses, including those that may cause drowsiness or dizziness.

4. TESTING

- 4.1 To enforce this policy, the Port conducts the following types of testing:
 - A) Pre-Employment Testing. Final offers of employment to applicants for safety sensitive positions will be contingent on passing a drug screening test. Prospective new hires will receive information concerning the drug testing procedures with their conditional employment offer.
 - B) Post-Accident Testing. If a covered individual is involved in an on-the-job accident that results in injury or property damage, the covered individual will be required to submit to immediate drug and/or alcohol testing, as the Port determines.
 - C) Reasonable-Suspicion Testing. If, at any time, the Port suspects a covered individual is at work under the influence of alcohol or drugs or smelling of alcohol, the covered individual will be required to submit to immediate drug and/or alcohol testing, as the Port determines. When there is reasonable suspicion, the covered individual is placed on an unpaid leave of absence and is not to return to work until fitness for duty is established. If the test result is negative, the Port will reimburse the covered individual for the regular work time he or she was scheduled for, but could not work while waiting for the test results.

- 4.2 Consent to Testing. As a condition of employment, covered individuals are required to consent to the tests described in this policy. Refusal to submit to testing is grounds for immediate termination. Covered individuals referred for testing will be required to sign additional consent forms provided by the testing facility and/or the Port.
- 4.3 Retesting. The Port allows for one (1) confirmatory test of positive drug testing samples. If the covered individual requests a retest, the retest will take place immediately following the first test.
- 4.4 Confidentiality. All information relating to drug or alcohol testing will be stored in each covered individual's Medical File, which is maintained separately from the covered individual's Personnel File. Medical Files are secured and access is limited to those with a work-related need to know.

5. VIOLATION OF POLICY

- 5.1 If the Port has reasonable grounds to believe that a covered individual has violated any of the statements of this policy, the Port may take any of the following actions:
 - A) Disciplinary action including, but not limited to, suspension and/or immediate termination; or
 - B) Require the covered individual to submit to drug and/or alcohol testing on company time and expense at a laboratory or medical facility prescribed by the Port; or
- 5.2 Report of test results will be on controlled substances and alcohol referred to in this policy only.
- 5.3 Any covered individual who tests positive will be subject to immediate termination.
- 5.4 A covered individual will be immediately terminated if he or she refuses the screening or the test, adulterates, or dilutes the specimen, substitutes the specimen with that from another person or sends an imposter, will not sign the required forms, or refuses to cooperate in the testing process in such a way that prevents completion of the test.
- 5.5 If a covered individual is suspected of violating this policy, he or she may be asked to submit to a search or inspection at any time. Searches can be conducted of lockers, desks, cabinets, work stations, Port-owned vehicles, and Port-owned equipment. The Port may release to any law enforcement agency any information it may have regarding criminal activities.

6. NOTIFICATION OF CONVICTION

- 6.1 Any covered individual convicted of any criminal drug statute violation occurring in the workplace, during working hours, or while engaged in Port business, must notify the Executive Director or his designee no later than five (5) working days after such conviction.

Within thirty (30) calendar days after receiving notice of the conviction, the Port will:

- A) Take appropriate disciplinary action against such covered individual, up to and including dismissal; and/or
- B) Require such covered individual to satisfactorily participate in drug abuse assistance or rehabilitation program approved for such purpose by a federal, state, or local health, law enforcement, or other appropriate agency.

7. POSITION ON ALCOHOL AND DRUG PROBLEMS

It is the intent of this policy that a covered individual suffering from chemical dependency not have his or her job security and promotional opportunities jeopardized by a request for help. However, satisfactory job performance is still mandatory, and a covered individual has the primary responsibility for seeking help and maintaining a treatment program as prescribed by qualified professionals. A covered individual's entry into treatment does not negate or diminish the Port's right to discipline him or her for unsatisfactory performance or failure to meet conditions of employment including compliance with this statement.

8. INFORMATION AND REFERRAL

- 8.1 Information will be available on public or private drug counseling, rehabilitation, and covered individual assistance programs upon the request of any covered individual. The Executive Director will from time to time designate the covered individual who will be able to provide such information.
- 8.2 The Executive Director or Designee will establish an education drug-free awareness program to educate covered individuals on substance abuse. Such program will include:
 - A) Management and supervisory training;
 - B) Dangers of workplace substance abuse;
 - C) Information concerning available drug counseling or rehabilitative counseling alternatives;
 - D) Penalties for drug abuse violations.

9. NOTIFICATION TO COVERED INDIVIDUALS

This policy will be distributed to all new covered individuals during orientation.

10. DEFINITIONS

- 10.1 "Alcohol" means any liquid that may be legally sold and consumed and has an alcoholic content in excess of one-half of one percent by volume.

- 10.2 “Controlled Substance” means a substance listed in Schedules I through V of Section 202 of the Controlled Substances Act (21 U.S.C. 812). This list includes, but is not limited to, marijuana, heroin, PCP, cocaine and amphetamines.
- 10.3 “Conviction” means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the federal, state, or local criminal drug statutes.
- 10.4 “Covered individual” means any individual who conducts business for the Port. Coverage of this policy includes, but is not limited to, executive management, managers, supervisors, full-time employees, part-time employees, off-site employees, contractors, volunteers, and interns.
- 10.5 “Criminal drug statute” means a criminal statute involving manufacture, distribution, dispensation, use, or possession of any controlled substance.
- 10.6 “Being under influence of controlled substance” means being perceptibly affected by a controlled substance and/or having within one’s body any amounts of a controlled substance.
- 10.7 “Being under influence of alcohol” means being perceptibly affected by alcohol in the conduct or performance of one’s job responsibilities.
- 10.8 “While engaging in Port business” means while an covered individual is being paid by the Port, is representing the Port, is presenting himself or herself as an agent of the Port (whether or not authorized to do so), or is attending or participating in any activities organized or sponsored by the Port.
- 10.9 “In the workplace” includes all Port premises or vehicles, including those owned, leased, used, or controlled by the Port.
- 10.10 “In the workplace” includes all Port premises or vehicles, including those owned, leased, used, or controlled by the Port.

A COPY OF THIS POLICY WAS RECEIVED BY

Name of Covered Individual

Furthermore, Covered Individual (Employee/Commissioner) acknowledges that they have read the Drug and Alcohol-Free Workplace Policy and understands its contents and will abide by the contents.

THIS ____ DAY OF _____, 20__.

Signature of Covered Individual

EXHIBIT C**POLICY MANUAL ACKNOWLEDGMENT**

I _____ have received a copy of the Personnel Manual, have read it, understand it and will abide by the contents. Furthermore, I recognize that the employment relationship is at-will, just as I may leave at any time without legal obligation and there is no guarantee of continued employment. Any questions regarding this entire Personnel Manual and exhibits were asked and clarified to my satisfaction.

A COPY OF THIS STATEMENT WAS RECEIVED BY

Name of Employee

THIS ____ DAY OF _____, 20__.

Signature of Employee

PORT OF KENNEWICK

RESOLUTION 2011-35

***A RESOLUTION OF THE BOARD OF COMMISSIONERS
OF THE PORT OF KENNEWICK APPROVING THE
PUBLIC RECORDS AND INFORMATION MANAGEMENT PROGRAM***

WHEREAS, the Public Records Act, RCW 42.56, requires public agencies to make identifiable, non-exempt public records available for inspection and copying upon request and to publish rules of procedure to inform the public how access to public records will be accomplished; and

WHEREAS, the purpose of the rules is to provide the public full and timely access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of efficient administration of our Port; and

WHEREAS, the Act and these rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the Act, the Port will be guided by the provisions of the Act describing its purposes and interpretation.

NOW THEREFORE, BE IT RESOLVED that the Port of Kennewick Commission does hereby approve the Public Records and Information Management Program, as attached.

ADOPTED by the Board of Commissioners of Port of Kennewick on the 23rd day of August 2011.

**PORT OF KENNEWICK
BOARD OF COMMISSIONERS**

By: _____
SKIP NOVAKOVICH, President

By: _____
DAVID HANSON, Vice President

By: _____
GENE WAGNER, Secretary

**Port of Kennewick
Public Records and Information Management Program**

PUBLIC RECORDS ACT RULES

The Public Records Act, RCW 42.56, requires public agencies to make identifiable, non-exempt public records available for inspection and copying upon request and to publish rules of procedure to inform the public how access to public records will be accomplished. The following Rules for responding to public records/disclosure request are established.

The purpose of these rules is to provide the public full and timely access to information concerning the conduct of government, mindful of individuals' privacy rights and the desirability of efficient administration of our Port. The Act and these rules will be interpreted in favor of disclosure. In carrying out its responsibilities under the Act, the Port will be guided by the provisions of the Act describing its purposes and interpretation.

Section 1. Definitions/Explanations

- a. **Public record.** A writing, regardless of physical form, containing information relating to the conduct of government or the performance of any governmental or proprietary function, prepared, owned, used or retained by the Port.
- b. **Writing.** Broadly defined, a writing means handwriting, typewriting, printing, photostating, photographing, and any other means of recording any form of communication, including, but not limited to, letters, words, pictures, sounds or symbols or their combinations; papers, maps, magnetic or paper tapes, photographic films and prints, motion picture, film and video recordings, magnetic or punched cards, discs, drums, diskettes, sound recordings, and other documents including data compilations from which information may be obtained or translated. An email is a writing.
- c. **Identifiable record.** An identifiable record is one in existence at the time the records request is made and that Port staff can reasonably locate.
- d. **Exempt record.** All agency records are available for review by the public unless they are specifically exempted or prohibited from disclosure by state law, either directly in RCW 42.56 or other statutes. The Municipal Research and Services Center maintains an up-to-date list of current exemptions and prohibitions on their website at www.mrsc.org/Publications/prdpub04.pdf (scroll to Appendix C).
- e. **Counter document.** A frequently requested document that is known to be public information and may be released without need to file a written public disclosure request.
- f. **E-mail.** Electronic mail is an informational transfer system which uses computers for sending and receiving messages. It is comprised of individual units of information divided into an "envelope" and the message contents. The envelope, or message header, contains the mailing address, routing instructions, transmission and receipt information, and other information the system needs to deliver the mail item correctly. Classification of emails as public records is dependent on the content of the message. Email messages are public records when they are created or received in the transaction of public business and retained as evidence of official actions.

Section 2. Description of Port Services

The Port of Kennewick is a Washington Special Purpose District, which goals are to create, structure jobs & economic development. These functions include, but are not limited to, maintaining public records. The Public Records Officer shall maintain descriptions of the Ports organization and the process through which the public may obtain information from the Port.

The Port of Kennewick's main office is located at 350 Clover Island Drive, Suite 200, Kennewick, WA 99336.

Section 3. Public Records Officer

Any person wishing to request access to public records or seeking assistance in making a request should contact the Port's Public Records Officer. The Public Records Officer has been designated by the Port of Kennewick's Board of Commissioners.

The Public Records Officer will oversee compliance with the Public Records Act, but may designate other Port staff members who may process requests for public records.

The Public Records Officer or his designees will provide the fullest assistance to requestors, ensure that public records are protected from damage or disorganization, and prevent fulfilling public records requests from causing excessive interference with the essential functions of the Port.

When using these Rules, references to the Public Records Officer should be interpreted to also include his designees.

- a. Requests for records.** Requests to inspect or copy any records maintained by the Port, should be made to the Public Records Officer at:

Public Records Officer
Port of Kennewick
350 Clover Island Drive, Suite 200
Kennewick, WA 99336

Telephone: 509-586-1186
FAX: 509-582-7678
E-mail: bscott@portofkennewick.org

- b. Internet access to records.** Many records are available on the Port of Kennewick website at www.portofkennewick.org. Requestors are encouraged to view the documents available on the website prior to submitting a public records request.

Section 4. Availability of public records

- a. Hours for inspection.** Public records are available for inspection and copying during the Port's normal business hours: Monday through Friday, 8:00 a.m. to 12:00 p.m., and 1:00 p.m. to 5:00 p.m., excluding legal holidays. Port staff and the requestor may make mutually agreeable arrangements for times of inspection and copying.

- b. Place of inspection.** Records will be made available for inspection at the Port of Kennewick. Port staff and the requestor may make mutually agreeable arrangements for inspection if the particular records being sought are maintained at the Port office.

A requestor shall not take Port records from Port offices without permission of the Public Records Officer.

- c. Electronic access to records.** A variety of records are available on the Port's web site at www.portofkennewick.org
- d. Records index.** Maintaining a central index of Port records is unduly burdensome, costly, and would interfere with Port operations due to the number of complexity of records generated as a result of the wide range Port activities.
- e. Organization of records.** The Port will maintain records in a reasonably organized manner and will take reasonable actions to protect records from damage and disorganization.
- f. Retention of records.** The Port is not required to retain all records it creates or uses. The State Attorney General's Local Records Committee approves a general retention schedule for local agency records that is common to most agencies. Individual agencies may seek approval from the Local Records Committee for retention schedules specific to their agency or that, due to their particular business needs, must be kept longer than provided in the general schedule. The retention schedules for local agencies are available at www.secstate.wa.gov/archives/gs.aspx.

Retention schedules vary based on the content of the record.

Section 5. Making a request for public records

- a. Reasonable notice that the request is for public records.** A requestor must provide the Port with reasonable notice that the request being made is for public records. If a request is contained in a larger document unrelated to a public records request, the requestor should point out the public records request by labeling the front page of the document as containing a public records request or otherwise calling the request to the attention of the Public Records Officer to facilitate timely response to the request.
- b. Form.** Any person wishing to inspect or copy identifiable public records of the Port should make the request in writing in one of the following ways:
- on the provided request form (available at the website at www.portofkennewick.org);
 - by letter, fax, or e-mail addressed to the Public Records Officer.

The following information should be included in the request:

- Name and address of requestor;
- Other contact information, including telephone number and email address;
- Identification of the requested records adequate for the Public Records Officer to locate the records; and
- The date and time of day of the request.

The Port is not authorized to provide lists of individuals for commercial purposes.

- c. **Prioritization of records.** The Public Records Officer may ask a requestor to prioritize the records he or she is requesting so that the most important records may be provided first. A requestor need not prioritize a request.
- d. **Copies.** If the requestor wishes to have copies of the records made instead of simply inspecting them, he or she should so indicate and make arrangements to make a deposit or pay for the copies, as further discussed in Section 10 below. Costs for copies are set out on the fee schedule published periodically by the Records Manager and made available at the Port, and on the Port's web site.
- e. **Oral Requests.** The Public Records Officer may accept requests for public records that contain the above information by telephone or in person. If an oral request is made, the Public Records Officer will confirm receipt of the information and the substance of the request in writing.
- f. **Requests made directly to Port departments.** Requests for public records other than identified "counter documents" that are made directly to departments shall be delivered to the Public Records Officer immediately upon receipt for coordinated processing.
- g. **Purpose of request.** A requestor need not state the purpose of the request. However, in an effort to clarify or prioritize a request and provide responsive records, the Public Records Officer may inquire about the nature or scope of the request. If the request is for a list of individuals, the Public Records Officer may ask the requestor if he/she intends to use the records for a commercial purpose. The Port is not authorized to provide lists of individuals for commercial purposes.

The Public Records Officer may also seek sufficient information to determine if another statute may prohibit disclosure.

- h. **Overbroad request.** The Port may not deny a request for identifiable public records solely because the request is overbroad. However, the Port may seek clarification, ask the requestor to prioritize the request so that the most important records are provided first, and/or communicate with the requestor to limit the size and complexity of the request. The Port may also provide the responsive records in installments over time.

When a request uses an inexact phrase such as "all records relating to", the Public Records Officer may interpret the request to be for records which directly and fairly address the topic.

When the requestor has found the records he or she is seeking, the requestor should advise the Public Records Officer that the requested records have been provided and the remainder of the request may be cancelled.

Section 6. Processing public records requests

- a. **Providing "fullest assistance".** These Rules and related policies and procedures identify how the Port will provide full access to public records, protect records from damage or disorganization, prevent excessive interference with other essential functions of the agency, provide fullest assistance to requestors and provide the most timely possible action on public records requests.

All assistance necessary to help requestors locate particular responsive records shall be provided by the Public Records Officer, provided that the giving of such assistance does not unreasonably

disrupt the daily operations of the Port or other duties of any assisting employee(s) in other Port departments.

- b. **Order for processing requests.** The Public Records Officer will process requests in the order allowing the most requests to be processed in the most efficient manner.
- c. **Acknowledging receipt and fulfilling requests.** Within five business days of receipt of the request, the Public Records Officer will do one or more of the following:
 1. Make the record available for inspection or copying;
 2. If copies are requested and payment of a deposit for the copies, if any, is made or terms of payment are agreed upon, send the copies to the requestor;
 3. Acknowledge that the request has been received and provide a reasonable estimate of when records will be available;
 4. If the request is unclear or does not sufficiently identify the requested records, request clarification from the requestor. Such clarification may be requested and provided by telephone; or
 5. Deny the request.

The Port may respond to a request to provide access to a public record by providing the requestor with a link to the Port's web site containing an electronic copy of that record if it can be determined that the requestor has internet access.

- d. **Reasonable estimate of time to fully respond.** If not able to respond within the five business-day period, the Public Records Officer must provide a reasonable estimate of the time it will take to fully respond to the request. Additional time may be needed to clarify the scope of the request, locate and assemble the records, redact confidential information, prepare a withholding index, notify third party persons or agencies affected by the request and/or consult with the Port Attorney about whether the records are exempt from disclosure.

The Public Records Officer should briefly explain the basis for the time estimated to respond. Should an extension of time be necessary to fulfill the request, the Public Records Officer will provide a revised estimate and explain the changed circumstances that make it necessary.

- e. **Notification that records are available.** The Public Records Officer will notify the requestor that the entire response, or an installment is available for inspection, and ask the requestor to contact the Port to arrange a mutually agreeable time for inspection. If the requestor seeks copies, the Public Records Officer should notify him or her of the projected costs and whether a deposit is required before making the copies.
- f. **Consequences of failure to respond.** If the Port does not respond in writing within five business days of receipt of the request for disclosure, the requestor should consider contacting the Public Records Officer to determine the reason for failure to respond.
- g. **Consequences of failure to clarify a request.** If the requestor does not respond to the Port's request for clarification within 30 days of the Port's request, the Public Records Officer may consider the request abandoned, send a letter closing the response to the requestor, and re-file the records.

- h. Consequences of disclosing a record in error.** The Port, and its officials or employees are not liable for loss or damage based on release of a public record if the Port, official or employee acted in good faith in attempting to comply with the Public Records Act.
- i. Searching for records.** The Port must conduct an objectively reasonable search for responsive records. The Public Records Officer will determine where responsive records are likely to be located to assemble the records.

After the records are located, the Public Records Officer should take reasonable steps to narrow down the number of records assembled to those that are responsive. The Port will not “bury” a requestor with non-responsive documents. However, the Public Records Officer is allowed to provide arguably, but not clearly, responsive records to allow the requestor to select the ones he or she wants, particularly if the requestor is unable or unwilling to help narrow the scope of the documents being sought.

- j. Preserving requested records.** If a requested record is scheduled shortly for destruction under the Port’s records retention schedule, the record cannot be destroyed until the public disclosure request has been resolved. Once a request has been closed, the Public Records Officer can destroy the record in accordance with the retention schedule.
- k. Records exempt from disclosure.** Some records are exempt from disclosure, in whole or in part (see Section 9).

If the Port believes that a record is exempt from disclosure and should be withheld, the Public Records Officer will state the specific exemption and provide a brief explanation of why the record or a portion of the record is being withheld.

If only a portion of the record is determined to be exempt, the Public Records Officer will redact the exempt portions and provide the non-exempt portions (See Section 6(m) below).

- l. Protecting the rights of others.** If the requested records contain information that may affect rights of others and may be exempt from disclosure, prior to providing the records the Public Records Officer may give notice to those whose rights may be affected by the disclosure. Generally ten days notice will be given in order to make it possible to contact the requestor and ask him or her to revise the request or, if necessary, allow affected individuals to seek an order from a court to prevent or limit the disclosure. The notice to the affected person(s) will include a copy of the request.
- m. Redactions.** If only a portion of a record is exempt from disclosure, but the remainder is not exempt, the Public Records Officer will redact the exempt portions, provide the non-exempt portions, and indicate to the requestor why portions of the record are being redacted. For example, to prevent an unreasonable invasion of personal privacy, the Public Records Officer shall redact identifying details such as social security numbers when he/she makes available or publishes any public record. In each case, the justification for the deletion shall be explained in writing.
- n. Personal privacy and vital government interests.** When a public record is exempt from disclosure under the Public Records Act, the exemption does not apply if the information that might violate personal privacy or vital government interests can be deleted from the records being sought.

- o. Inspection of records.** To the extent possible due to other demands, the Public Records Officer shall promptly provide space to inspect public records at the Port. The requestor must claim or review the assembled records within thirty days of the Public Records Officer's notification that the records are available for inspection or copying. The Public Records Officer will notify the requestor in writing of this requirement and suggest that he or she contact the Port to make arrangements to claim or review the records.

If the requestor or a representative of the requestor fails to claim or review the records within the thirty-day period, or make other arrangements, the Public Records Officer may close the request and re-file the assembled records. Other public records requests can be processed before a subsequent request by the same person for the same or almost identical records, which will be processed as a new request. Members of the public may not remove documents from the viewing area or disassemble or alter any document.

- p. Providing copies of records.** The requestor shall indicate which documents he or she wishes to have copied using a mutually agreed upon non-permanent method of marking the desired records. After inspection is complete, the Public Records Officer will arrange for copying. Making a copy of an electronic record is considered copying and not creation of a new record.
- q. Providing records in installments.** When the request is for a large number of records, the Public Records Officer will provide access for inspection and copying in installments if he or she reasonably determines that it would be practical to provide the records in that way. If the requestor fails to inspect the entire set of records or one or more of the installments within 30 days, the Public Records Officer may stop searching for the remaining records and close the request.
- r. Completion of inspection.** When the inspection of the requested records is complete and all requested copies are provided, the Public Records Officer will indicate that the Port has completed a diligent search for the requested records and made any located non-exempt records available for inspection.
- s. Closing withdrawn or abandoned requests.** If the requestor withdraws the request, fails to fulfill his or her obligations to inspect the records, or fails to pay the deposit or final payment for the requested copies, the Public Records Officer will close the request and indicate to the requestor that the Port has closed the request. The Public Records Officer will document closure of the request and the conditions that led to closure.
- t. Later discovered documents.** If, after the Public Records Officer has informed the requestor that the Port has provided all available records, the Port becomes aware of additional responsive documents that existed on the date of the request, the Public Records Officer will promptly inform the requestor of the additional documents and provide them on an expedited basis.
- u. No duty to create records.** The Port is not obligated to create a new record to satisfy a records request; however, the Port may, in its discretion, create such a new record to fulfill the request where it may be easier for the Port to create a record responsive to the request than to collect and make available voluminous records that contain small pieces of information responsive to the request.
- v. No duty to supplement responses.** The Port is not obligated to hold current records requests open to respond to requests for records that may be created in the future. If a public record is created or comes into the possession of the Port after a request is received by the Port, it is not

responsive to the request and will not be provided. A new request must be made to obtain later-created public records.

Section 7. Processing requests for electronic records.

This Section will be further developed after publication of additional rules by the Attorney General relating to electronic records.

Section 8. Retention of records.

The Port will retain its records in accordance with retention schedules approved by the State Local Records Committee. Public records may not be destroyed per a retention schedule if a public records request or actual or anticipated litigation is pending.

Section 9. Exempt and prohibited disclosure of public records.

The Port is not required to permit public inspection and copying of records for which public disclosure of the record is prohibited, restricted or limited by state or federal statute or regulation.

- a. The Port of Kennewick is prohibited by statute from disclosing lists of individuals for commercial purposes.
- b. The Public Records Act, RCW 42.56, provides that a number of document types and information are prohibited from being disclosed or are exempt from public inspection and copying. A current list of these prohibitions and exemptions will be provided upon request by the Public Records Officer and is available on the Municipal Research and Services Center web site at www.mrsc.org/Publications/prdpub04.pdf
- c. In addition, other statutes may exempt or prohibit disclosure of other documents and information. A current list of these prohibitions and exemptions will be provided upon request by the Public Records Officer. Alternatively, the requestor may review a list of other statutes outside the Public Records Act that may prohibit or exempt disclosure of certain information from the Municipal Research and Services Center web site at www.mrsc.org/Publications/prdpubo4.pdf.
- d. The Port's failure to list an exemption shall not affect the effectiveness of the exemption.

Section 10. Costs of providing copies of public records.

Per state law, the Port is not allowed to charge for locating a public record or for making records available for review or inspection. The Port may charge, however, for the actual costs of copying public records.

- a. **Fee schedule.** The charge for standard black-and-white photocopies is fifteen cents per page.

The Records Officer will periodically update and post a fee schedule for various other nonstandard public records or those in other formats or media. The fee schedule may be found online at <http://www.portofkennewick.org>. A statement of the factors and manner used to determine the specific fees will be provided upon request to the Public Records Officer.

If the Port has to pay an outside firm for duplicating records in non-routine formats such as photographs, blueprints or tape recordings, the actual cost will be passed along to the requestor.

- b. **Certified copies.** Where the request is for a certified copy, an additional charge of one dollar may be applied to cover the additional expense and time required for certification.
- c. **Faxing and mailing charges.** The Port may also charge actual costs of long distance facsimile transmission and/or mailing, including the cost of the shipping container.
- d. **Sales tax.** The Port will not charge sales tax on copies of records.
- e. **Use of other copying services.** The Port is not required to copy records at its own facilities, and may determine to use a commercial copying center. The Port will make arrangements for the vendor to bill the requestor for the amount charged by the vendor. In event where the vendor will not bill, the Port will make arrangements for the requestor. In all cases, copies must be paid in advance or at time of pick up.
- f. **Deposit or payment by installments.** Before beginning to copy records, the Public Records Officer or designee may require a deposit of up to ten percent of the estimated costs of copying the records selected by a requestor. The Public Records Officer may also require the payment of the remainder of the copying costs before providing all the records, or the payment of the costs of copying an installment before providing that installment.
- g. **Method of payment.** Payment may be made by cash or money order to the Port of Kennewick.
- h. **Waiver of copying charges.** The Public Records Officer has the discretion to waive copying charges for small requests, or for individuals or government agencies doing business with the Port if the Public Records Officer determines that this action is in the best interest of the Port.

Section 11. Denials of requests for public records.

- a. **Petition for internal administrative review of denial of access.** Any person who objects to the initial denial or partial denial of a records request may petition in writing (including by e-mail) to the Public Records Officer for a review of that decision. The petition shall include a copy of or reasonably identify the written statement by the Public Records Officer or designee denying the request.
- b. **Consideration of petition for review.** The Public Records Officer shall promptly provide the petition and any other relevant information to the Port Attorney or his or her designee to conduct the review. The Port Attorney or his or her designee will promptly consider the petition and either affirm or reverse the denial within ten business days following the Port's receipt of the petition, or within such other time to which the Port and the requestor mutually agree.
- c. **Judicial review.** Any person may obtain court review of denials of public records requests pursuant to RCW 42.56.550 at the conclusion of ten business days after the initial denial regardless of any internal administrative appeal.

PORT OF KENNEWICK

RESOLUTION No. 2011-36

***A RESOLUTION OF THE PORT OF KENNEWICK BOARD OF
COMMISSIONERS DESIGNATING CLOVER ISLAND DOCK REPAIRS AS
EXEMPT FROM PUBLIC WORKS COMPETITIVE BIDDING REQUIREMENTS***

WHEREAS, in accordance with RCW 39.04.280, the Port of Kennewick (Port) is authorized to designate certain public works contracts as emergencies and, therefore, exempt from competitive bidding requirements; and

WHEREAS, high winds and high water damaged the public dock below Cedars restaurant, causing a public safety hazard and threatening further damage to the pilings and dock sections; and

WHEREAS, under his delegation of authority, the Executive Director authorized emergency repairs and so notified each commissioner individually;

NOW, THEREFORE, BE IT RESOLVED that the Port of Kennewick Board of Commissioners designates these dock repairs as an emergency public works project within the guidelines of RCW 39.04.280, and therefore exempt from competitive bidding requirements.

ADOPTED by the Board of Commissioners of the Port of Kennewick on the 23rd day of August, 2011.

***PORT OF KENNEWICK
BOARD OF COMMISSIONERS***

SKIP NOVAKOVICH, *President*

GENE WAGNER, *Vice President*

DAVID HANSON, *Secretary*