



PORT COMMISSION MEETING

December 12, 2023 – AGENDA



Tuesday, December 12, 2023
PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY

9:15 a.m.
111 East Loop North
Houston, TX 77029
Fourth Floor Boardroom
And Via WebEx

A. CALL TO ORDER

B. OPENING REMARKS BY CHAIRMAN AND COMMISSIONERS

1. Governance, legislative, policy, operational, and community matters

C. APPROVAL OF MINUTES

1. Port Commission Public Meeting - October 24, 2023

D. STAFF REPORTS

1. Summary of selected financial and operational matters

E. APPEARANCES

1. Public Comment

F. EXECUTIVE

Staff Report – Selected agenda items – Tom Heidt, Chief Operating Officer

General

1. Adopt the proposed 2024 Incentive Award Plan.
2. Approve the Amended and Restated Certificate of Formation of Port Houston Local Government Corporation and Amended and Restated Bylaws of Port Houston Local Government Corporation.

G. BUSINESS EQUITY

Staff Report – Selected agenda items – Maxine Buckles, Chief Business Equity Officer

Awards, Amendments & Change Orders

1. Approve the year three funding of a professional services contract with Nurseify, LLC D/B/A Culture Advisors (formerly IMC Culture) for assistance with implementation of a Diversity, Equity, and Inclusion plan initiative in an amount not to exceed \$332,900.

General

2. Amend the Minority- and Woman-Owned Business Enterprise Development Policy.

H. CHANNEL INFRASTRUCTURE

Staff Report – Selected agenda items – Charlie Jenkins, Chief Channel Infrastructure Officer

Awards, Amendments & Change Orders

1. Approve staff's ranking and award a two-year professional services contract in an amount not to exceed \$185,000 for sediment sampling analysis plans, sediment sampling, and analytical reports for the material from maintenance dredging of Port Authority-owned facilities to the top-ranked proposer: staff ranking – first, Lloyd Engineering, Inc.; second, Terracon Consultants, Inc.; and third, Benchmark Ecological Services, Inc.
2. Approve staff's ranking of vendors and award a professional services contract in an amount not to exceed \$538,180 for a sediment sampling analysis plan of Port Authority-owned facilities to the top-ranked proposer: staff ranking – first, Lloyd Engineering, Inc.; second, ANAMAR Environmental Consulting, Inc.; and third, Benchmark Ecological Services, Inc.

General

3. Approve the change of control of Vopak Moda Houston Holdco LLC under its lease for approximately 50 acres of submerged and filled submerged lands in the George M. Patrick and George Ross Surveys and Houston Ship Channel resulting from a transfer of Moda Infrastructure LLC's 50% equity interest.

Permits/Licenses/Pipeline Easements

4. Approve renewal of the following expiring Port Authority licenses for new thirty-year terms: Easton Energy Pipelines LLC, Enterprise Texas Pipeline LLC, and Linde Inc.
5. Approve a private adjacency barge fleeting lease agreement with, and issue a marine construction permit to, Kirby Inland Marine, LP for approximately 5.632 acres of submerged land in the San Jacinto River for a minimum amount of \$262,518 for a ten-year term.
6. Issue a pipeline license to South Texas NGL Pipeline LLC for one 6-inch propylene pipeline crossing the Port Terminal Railroad Association Southside Mainline railroad right-of-way near Rohm and Haas Road and Independence Parkway.
7. Amend a pipeline license issued to HSC Pipeline Partnership, LLC for the addition of a surface site on the Port Authority's Sims Bayou property.
8. Terminate all existing Beltway 8 property easements and licenses for Kinder Morgan Texas Pipeline LLC and its predecessors, and issue a pipeline easement for a 16-inch pipeline and relocation agreement to Kinder Morgan Texas Pipeline LLC across the Beltway 8 property.

I. COMMERCIAL

Staff Report – Selected agenda items – John Moseley, Chief Commercial Officer

Leases

1. Award a contract for broker services to Colliers International Houston, Inc. for marketing and leasing of the Greens Bayou Terminal property for a fee of 1% of the base rent over the first initial ten years, paid in three installments based on the lease structure.

2. Approve a lease for a five-year term with a five-year mutual extension option with Enstructure Richardson I LLC for approximately 12.55 acres out of Blocks 33 and 33A at Industrial Park East, at an annual base rent of approximately \$512,395, subject to annual base rent escalation of the greater of 3% or the increase in the Consumer Price Index.

J. FINANCE

Staff Report – Selected agenda items – Tim Finley, Chief Financial Officer

General

1. Approve and adopt the proposed Internal Audit 2024 Annual Audit Plan.
2. Authorize payment to the Harris County Appraisal District for appraisal services to be provided to the Port Authority for fiscal year 2024 in an amount not to exceed \$405,000, and payment to the Harris County Tax Assessor-Collector for collection services for the 2023 tax year in an amount not to exceed \$1,100,000.

K. INFRASTRUCTURE

Staff Report – Selected agenda items – Rich Byrnes, Chief Infrastructure Officer

Awards, Amendments & Change Orders

1. Award a contract to C. F. McDonald Electric, Inc. for the purchase and delivery of electrical substation equipment for Container Yard 8 at Bayport Container Terminal in an amount not to exceed \$2,996,469.
2. Award a professional services contract to Burrer Engineering for communication and power layout expansion design at the west end of Barbours Cut Terminal in an amount not to exceed \$201,847.

General

3. Enter into a Pipeline Crossing Agreement with Union Pacific Railroad Company for two proposed Port Authority waterline crossings at south Turning Basin Terminal and authorize a payment to Union Pacific in an amount not to exceed \$16,440.

L. OPERATIONS

Staff Report – Selected agenda items – Jeff Davis, Chief Port Operations Officer

Awards, Amendments & Change Orders

1. Award a contract to Aries Building Systems, LLC for the purchase of a modular building for Central Maintenance at Turning Basin Terminal, using the Local Government Purchasing Cooperative's BuyBoard Program, in an amount not to exceed \$170,000.
2. Issue a purchase order to Rush Truck Centers of Texas, LP dba Rush Truck Center, Houston for the purchase of one 2023 Peterbilt truck with a 4,500-gallon fuel tank for Bayport Container Terminal, using the Local Government Purchasing Cooperative's BuyBoard Program, in an amount not to exceed \$330,000.
3. Authorize payment to Kalmar, the sole source provider, for annual maintenance services for the marine terminal position detection software system for Barbours Cut Terminal and Bayport Container Terminal in an amount not to exceed \$215,377.

4. Award a three-year maintenance and support contract to IdSoftware Identification Management Systems, LLC, for the Transportation Worker Identification Credential reader software application installed at Bayport Container Terminal and Barbours Cut Terminal truck gates in an amount not to exceed \$172,074.

General

5. Issue Stevedore Licenses for one-year terms commencing January 1, 2024 to Agri American Stevedores, LLC; APS Stevedoring, LLC; BBM Terminals Corp.; SSA Gulf, Inc.; Cooper/Ports America LLC.; CT Stevedoring, Inc.; Gulf Stream Marine, Inc.; Jacintoport International, LLC; Kinder Morgan, Inc.; Empire Stevedoring (Houston), Inc.; Enstructure Richardson II, LLC (previously known as Richardson Stevedoring, and Logistics Services, Inc.); Schroder Marine Service; Suderman Contracting Stevedoring, Inc.; and Terminal Link Texas, upon each applicant's satisfactory completion of all requirements and obligations for license issuance.

6. Authorize a compliance agreement with U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Plant Protection and Quarantine program relating to the certification of Port Authority facilities for the handling of refrigerated containers completing cold treatment.

7. Authorize updates to Tariffs 8, 14, and 15 relating to the handling of refrigerated containers completing cold treatment.

8. Authorize updates to Tariff 8 relating to parking rules and violations.

9. Authorize updates to Tariff 14 and 15 regarding billing practices, gate operations start time, and extended gate hours.

M. PEOPLE

Staff Report – Selected agenda items – Jessica Shaver, Chief People Officer

Awards, Amendments & Change Orders

1. Authorize funding for calendar year 2024 for payment of claims from the Port Authority's self-funded group medical benefits program for active employees and retirees who are not Medicare-eligible, and eligible dependents, in an amount not to exceed \$17,500,000.

2. Approve a change order with BKJ Global Management Consulting, LLC for additional project management, analysis, and testing services for the Next Generation (NXGEN) Collaboration project for an additional amount not to exceed \$150,000.

N. SECURITY AND EMERGENCY OPERATIONS

Staff Report – Selected agenda items – Marcus Woodring, Chief Port Security and Emergency Operations Officer

Awards, Amendments & Change Orders

1. Issue a purchase order to Motorola Solutions for the purchase of land mobile radio equipment including radios, batteries, chargers, related hardware, and accessories for the Port Operations and Port Security and Emergency Operations Divisions, using the Houston-Galveston Area Council's cooperative purchase program, in an amount not to exceed \$500,000.

2. Enter into a three-year governmental services contract with the City of La Porte Emergency Medical Service for emergency medical services in an amount not to exceed \$247,239.75.

O. TECHNOLOGY

Staff Report – Selected agenda items – Charles Thompson, Chief Information Officer

Awards, Amendments & Change Orders

1. Approve staff's ranking and award services agreements for Next Generation (NXGEN) Enterprise Resource Planning (ERP), Phase III as follows: Alight Solutions, for implementation, consulting, and professional services in an amount not to exceed \$15,000,000 as to Scope 1; TREScope, for implementation, consulting, and professional services in an amount not to exceed \$970,000 as to Scope 1A; and TREScope, for implementation, consulting, and professional services in an amount not to exceed \$3,100,000 as to Scope 2.
2. Issue a purchase order to World Wide Technology LLC for professional services to perform a network assessment to improve its resiliency and redundancy, using Texas Department of Information Resources cooperative purchase program, in an amount not to exceed \$325,000.
3. Issue a purchase order to SHI Government Solutions for the purchase of Information Technology servers and related hardware, software, subscriptions, maintenance, and support, to replace end of support server hardware, using Texas Department of Information Resources cooperative purchase program, in an amount not to exceed \$1,600,000.
4. Issue a purchase order to Durian Consultants LLC for purchase of professional advisory services, using the United States General Services Administration, in an amount not to exceed \$3,000,000.
5. Issue a purchase order to SHI Government Solutions for Next Generation (NXGEN) INFOSEC End Point Protection anti-virus (EPP/EDR) software for a five-year term, using Texas Department of Information Resources cooperative purchase program, in an amount not to exceed \$275,000.
6. Issue a purchase order to MCA Communications Inc. for purchase of cameras and installation, using Texas Department of Information Resources cooperative purchase program, in an amount not to exceed \$174,000.
7. Issue a purchase order to Aries Building Systems, LLC for purchase of a dedicated project management office space structure to support the Next Generation (NXGEN) Enterprise Resource Planning (ERP) implementation project, using Harris County Department of Education's Choice Partners, a cooperative purchase program, in an amount not to exceed \$260,000.

P. RECESS OPEN MEETING AND CONVENE EXECUTIVE SESSION

1. Consultation with Attorneys (Section 551.071, Texas Open Meetings Act), including consultations regarding (i) *Port of Houston Authority v. Louis Dreyfus Company Houston Export Elevator LLC*, in the Southern District of Texas, and (ii) *Port of Houston Authority v. Ootzie Properties-Hou, LLC*
2. Real Estate (Section 551.072, Texas Open Meeting Act), including disposition of Galveston Bay vicinity property

3. Economic Development Negotiations or Incentives (Section 551.087, Texas Open Meetings Act)
4. Employment and Evaluation of Public Officers and Employees (Section 551.074, Texas Open Meetings Act)
5. Security-Related Matters (Sections 418.175-418.183 of the Texas Government Code, and Section 551.076, Texas Open Meetings Act)
6. Adjourn Executive Session

Q. RECONVENE OPEN MEETING

1. Announce any items from Executive Session requiring Port Commission action

R. CLOSING REMARKS BY CHAIRMAN AND COMMISSIONERS

1. Governance, legislative, policy, operational, and community matters

S. ADJOURN MEETING

1. Next Meeting Requested - January 23, 2024
2. Adjourn Port Commission Meeting

F. EXECUTIVE

Subject	1. Adopt the proposed 2024 Incentive Award Plan.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting, approve the proposed 2024 Incentive Award Plan, and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:
General

Department:
Corporate Strategy

Staff Contact:
Jessica Shaver

Background:
By Minute No. 2020-0128-50, the Port Commission adopted an Incentive Award Program Policy outlining the roles and responsibilities with respect to the administration and funding of employee incentives. Pursuant to that Policy, staff has prepared a proposed 2024 Incentive Award Plan.

By Minute No. 2023-1113-06, the Port Commission approved the Fiscal Year 2024 Operating and Capital Budget, which includes funds for an employee incentive award program. Incentive awards are cash awards that are intended to motivate employees to produce results that have been pre-defined and communicated to the employees in advance, and to reward them for achieving the stated performance goals.

The proposed 2024 Incentive Award Plan includes four target payout levels for eligible employees based on the Port Authority's net operating cash flow in 2024, its 2024 Strategic Targets and their respective weights, and completion of all mandatory compliance training, among other guidelines.

Incentive Plan Net Operating Cash Flow Target Payout Levels:

Below Threshold - below 10% of budget (Less than \$227,520,000)	No award given
Threshold Level - within 10% of budget (\$227,520,000 – 240,159,999.99)	Greater of 1% of annual base salary or \$1,500
Achievement Level – within 5% of budget (\$240,160,000 – 252,799,999.99)	Greater of 2% of annual base salary or \$1,750
Target Level - meeting budget target (\$252,800,000 – 265,439,999.99)	Greater of 3% of annual base salary or \$2,000
Maximum Level - exceeding 5% of budget (\$265,440,000 or More)	Greater of 5% of annual base salary or \$2,500

2024 Strategic Targets:

Strategic Goal Alignment	Target(s)	Target Weight
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People	<p>1. Foster organizational culture and prepare future leadership:</p> <p>A. Develop and roll out employee and executive development programs.</p> <p>B. Improve Recruitment and Retention process.</p>	15%
Infrastructure	<p>2. Grow Port capacity through planning and project execution:</p> <p>A. Deliver Project 11 elements, improve program to mitigate draft restrictions.</p> <p>B. Develop plans for Terminal 3, Bayport East-End, Interim Capacity, and Intermodal.</p> <p>C. Execute Turning Basin Improvements.</p> <p>D. Update 2025 Strategic Plan and 2050 Comprehensive Long-Range Plan.</p> <p>E. Execute Pillars 1 and 2 of NXGEN Enterprise Resource Planning Project (ERP).</p> <p>F. Rollout Houston Ship Channel User Fee framework.</p>	45%
Partnerships	<p>3. Strengthen business equity, customer and community relationships:</p> <p>A. Create more opportunities for small, minority- and woman-owned businesses.</p> <p>B. Expand outreach on HSC operation, maintenance, and expansion projects.</p>	20%
Stewardship	<p>4. Ensure excellence in Fiscal Responsibility, and Environmental, Social, Safety, Governance (ES2G):</p> <p>A. Attain financial measures for key capacity projects.</p> <p>B. Execute 2024 Sustainability Roadmap.</p> <p>C. Expand safety initiatives to support all Port Authority stakeholders.</p>	20%

Staff Evaluation/Justification:

The proposed 2024 Incentive Award Plan was prepared and reviewed by members of the Port Authority's People, Finance, and Legal divisions. Staff recommends that the Port Commission adopt the proposed 2024 Strategic Targets and 2024 Incentive Award Plan.

F. EXECUTIVE

Subject	2. Approve the Amended and Restated Certificate of Formation of Port Houston Local Government Corporation and Amended and Restated Bylaws of Port Houston Local Government Corporation.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting, (i) determine that amending the Certificate of Formation and Bylaws of Port Houston Local Government Corporation is wise, expedient, necessary, and advisable, (ii) approve the Amended and Restated Certificate of Formation of Port Houston Local Government Corporation and Amended and Restated Bylaws of Port Houston Local Government Corporation, and (iii) further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:

General

Department:

Executive

Staff Contact:

Erik Eriksson

Background:

In May 2023, the Port Commission authorized the formation of Port Houston Local Government Corporation as a local government corporation organized under Subchapter D of Chapter 431, Texas Transportation Code, in order to facilitate the acquisition and development of a new office building.

In June 2023, Port Houston Local Government Corporation was authorized to acquire property and take other actions in connection with that acquisition and development process, and on July 7, 2023, the property was purchased and an agreement entered into for development of the building.

Since then, planning and predevelopment activities have proceeded along with other staff work to facilitate that process.

This agenda item proposes various non-substantive changes to the Certificate of Formation and Bylaws of Port Houston Local Government Corporation, to more clearly describe its non-profit status and make other minor corrections and changes. Following approval by the Port Commission and the Board of Directors of Port Houston Local Government Corporation, the Amended and Restated Certificate of Formation would be filed with the Texas Secretary of State.

Staff Evaluation/Justification:

Staff recommends that the Port Commission approve the Amended and Restated Certificate of Formation and Amended and Restated Bylaws of Port Houston Local Government Corporation as described above. Approval of these items is required by statute, in the case of the Restated Certification of Formation, and the terms of each instrument also requires such approval.

AMENDED AND RESTATED CERTIFICATE OF FORMATION
OF
PORT HOUSTON LOCAL GOVERNMENT CORPORATION

This Amended and Restated Certificate of Formation amends and restates, and replaces in its entirety, the prior Certificate of Formation of Port Houston Local Government Corporation dated April 13, 2023 (the “Certificate of Formation”), and is submitted for filing pursuant to the applicable provisions of the Texas Business Organizations Code.

ARTICLE I. NAME

The name of the corporation is PORT HOUSTON LOCAL GOVERNMENT CORPORATION (the “Corporation”). The Corporation was formed by filing the Certificate of Formation with the Texas Secretary of State on April 13, 2023 and its file number assigned by the Secretary of State is 805033675.

ARTICLE II. NONPROFIT

The Corporation is a public, nonprofit local government corporation.

ARTICLE III. DURATION

The period of duration of the Corporation shall be perpetual.

ARTICLE IV. PURPOSES, ACTIVITIES

The Corporation is formed pursuant to the provisions of Subchapter D of Chapter 431, Texas Transportation Code (the “Act”), as it now or may hereafter be amended, and Chapter 394, Texas Local Government Code, as it now or may hereafter be amended, which authorize the Corporation to assist and act on behalf of the Port of Houston Authority of Harris County, Texas (the “Port Authority”) to accomplish any governmental purpose of the Port Authority, and to engage in activities in furtherance of the purposes for its creation. The Corporation is further organized to accomplish any governmental purpose of the Port Authority.

The Corporation shall have and exercise all of the rights, powers, privileges, authority, and functions given by the general laws of Texas to nonprofit corporations incorporated under the Act and the Texas Business Organizations Code.

The Corporation shall have all other powers of a like or different nature not prohibited by law which are available to nonprofit corporations in Texas and which are necessary or useful to enable the Corporation to perform the purposes for which it is created, including the power to issue bonds, notes, or other obligations, and otherwise exercise its borrowing power to accomplish the purposes for which it was created, provided that the Corporation shall not issue bonds without the consent of the Port Commission of the Port Authority.

The Corporation is created as a local government corporation pursuant to the Act and shall be a governmental unit within the meaning of Subdivision (3), Section 101.001, Texas Civil Practice and Remedies Code. The operations of the Corporation are governmental and not proprietary functions for purposes of the Texas Tort Claims Act, Section 101.001 et seq., Texas Civil Practice and Remedies Code.

ARTICLE V. NO MEMBERS

The Corporation shall have no members and shall have no stock.

ARTICLE VI. BOARD

Subject to actions requiring the approval of the Port Authority, as identified below, all powers of the Corporation shall be vested in a Board of Directors (the “Board”). The directors of the Corporation (“Director” or “Directors”) shall be appointed to the Board as prescribed in the Corporation’s Bylaws (the “Bylaws”). The number of Directors constituting the Board is seven (7), and each shall serve for the term as prescribed in the Bylaws. Any Director may be removed from office at any time, with or without cause, by the Port Commission of the Port Authority.

The Chair of the Board shall be the Chair of the Port Commission of the Port Authority.

All other matters pertaining to the internal affairs of the Corporation shall be governed by the Bylaws, so long as the Bylaws are not inconsistent with this Certificate of Formation and the laws of the State of Texas.

ARTICLE VII. REGISTERED OFFICE, AGENT, INITIAL MAILING ADDRESS

The street address of the initial registered office of the Corporation is 111 East Loop North, Houston, Texas 77029, and the name of its initial registered agent at such address is Erik Eriksson. The initial mailing address of the Corporation is 111 East Loop North, Houston, Texas 77029.

ARTICLE VIII. LIMITED LIABILITY; INDEMNIFICATION

No Director shall be liable to the Corporation for monetary damages for an act or omission in the Director’s capacity as a Director, except for liability (i) for any breach of the Director’s duty of loyalty to the Corporation, (ii) for acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law, (iii) for any transaction from which the Director received an improper benefit, whether or not the benefit resulted from an act taken within the scope of the Director’s office, or (iv) for acts or omissions for which the liability of a Director is expressly provided by statute. Any repeal or amendment of this Article VIII by the Directors shall be prospective only, and shall not adversely affect any limitation on the personal liability of a Director existing at the time of such repeal or amendment. In addition to the circumstances in which a Director is not personally liable as set forth in the preceding sentences, a Director shall not be liable to the fullest extent permitted by any amendment to the Texas statutes hereafter enacted that further limits the liability of a Director.

Each person who was or is made a party or is threatened to be made a party to or is involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitrative, or investigative (“Proceeding”), and any appeal in such a Proceeding or any inquiry or investigation that could lead to such a Proceeding, by reason of the fact that he or she, or a person of whom he or she is the legal representative, is or was a Director of the Corporation, or while a Director of the Corporation is or was serving at the request of the Corporation as a manager, director, officer, partner, venturer, proprietor, trustee, employee, agent, or similar functionary of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise, shall be indemnified by the Corporation to the fullest extent permitted by law (but, in the case of any amendment of any such law, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than such law permitted the Corporation to provide prior to such amendment) against judgments, penalties (including excise and similar taxes and punitive damages), fines, settlements and reasonable expenses (including, without limitation, attorneys’ fees) actually incurred by such person in connection with such Proceeding, or any inquiry or investigation that could lead to such a Proceeding, and such indemnification shall continue as to a person who has ceased to serve in the capacity which initially entitled such person to indemnity hereunder. In addition to the foregoing, the Corporation shall, upon request of any such person described above and to the fullest extent permitted by law, pay or reimburse the reasonable expenses incurred by such person in any Proceeding or any inquiry or investigation that could lead to such a Proceeding in advance of the final disposition of such Proceeding. Such indemnification may include indemnification for negligence or under theories of strict liability, and this right of indemnification shall not be exclusive of other rights to which such Director may be entitled.

ARTICLE IX. TAX MATTERS

Regardless of any other provisions of this Certificate of Formation or the laws of the State of Texas, the Corporation: (i) shall not permit any part of the net earnings of the Corporation to inure to the benefit of any private individual or private interests (except that reasonable compensation may be paid for personal services rendered to or for the Corporation in effecting one or more of its purposes), (ii) shall not devote more than an insubstantial part of its activities to attempting to influence legislation by propaganda or otherwise, (iii) shall not participate in, or intervene in (including the publication or distribution of statements), any political campaign on behalf of any candidate for public office, and (iv) shall not attempt to influence the outcome of any election for public office or to carry on, directly or indirectly, any voter registration drives. Any income earned by the Corporation after payment of reasonable expenses, debt, and establishing a reserve shall accrue to the Port Authority.

The Port Authority shall, at all times, have an unrestricted right to receive any income earned by the Corporation, exclusive of amounts needed to cover reasonable expenditures and reasonable reserves for future activities.

If the Corporation is a private foundation within the meaning of Section 509(a) of the Code, the Corporation: (a) shall distribute its income for each taxable year at such time and in such manner as not to become subject to the tax on undistributed income imposed by Section 4942 of

the Code, (b) shall not engage in any act of self-dealing as defined in Section 4941(d) of the Code, (c) shall not retain any excess business holdings as defined in Section 4943(c) of the Code, (d) shall not make any investments in such manner as to subject it to tax under Section 4944 of the Code, and (e) shall not make any taxable expenditures as defined in Section 4945(d) of the Code.

ARTICLE X. DISSOLUTION

If the Board determines by resolution that the purposes for which the Corporation was formed have been substantially met and all bonds or debt issued by and all obligations incurred by the Corporation have been fully paid, the Board shall execute a certificate of dissolution which states those facts and declares the Corporation dissolved in accordance with the requirements of Section 394.026, Texas Local Government Code, or with applicable law then in existence. In the event of dissolution or liquidation of the Corporation, all assets will be turned over to the Port Authority, unless the Port Commission of the Port Authority shall direct otherwise.

The Port Commission of the Port Authority may at any time consider and approve an order or resolution directing the Board to proceed with the dissolution of the Corporation. Upon final approval of such order or resolution, the Board shall proceed with the dissolution of the Corporation in accordance with applicable state law. The failure of the Board to proceed with the dissolution of the Corporation in accordance with this Article shall be deemed a cause for the removal from office of any or all of the Directors as permitted by Article VI of this Certificate of Formation.

ARTICLE XI. PUBLIC INSTRUMENTALITY

The Corporation is a constituted authority and a public or governmental instrumentality within the meaning of the regulations of the United States Treasury Department and the rulings of the Internal Revenue Service prescribed and promulgated pursuant to Section 103 of the U.S. Internal Revenue Code of 1986, as amended, and the Corporation is authorized to act on behalf of the Port Authority in this Certificate of Formation. However, the Corporation is not a political subdivision or political authority of the State of Texas within the meaning of its constitution and laws, including, without limitation, Article III, Section 52 of the Texas Constitution, and no agreements, bonds, debts, or obligations of the Corporation are or shall ever be deemed to be the agreements, bonds, debts, or obligations, or the lending of credit, or grant of public money or thing of value, of or by the Port Authority or any other political subdivision or authority or governmental agency of the State of Texas, or a pledge of the faith and credit of any of them. No action of the Corporation shall be deemed an action of the Port Authority or its agents or employees, nor shall this Certificate of Formation create a joint enterprise between the Port Authority and the Corporation.


ARTICLE XII. AMENDMENTS

This Certificate of Formation may not be changed or amended unless approved by the Port Commission of the Port Authority.

ARTICLE XIII. SPONSOR

The Port Authority is the sponsor of the Corporation. Port Commission Minute No. 2023-0320-36 approving, among other things, the creation of the Corporation, the authorization for the Corporation to assist and act on behalf of the Port Authority to accomplish the purposes set forth above, and the form of this Certificate of Formation, was adopted by the Port Commission of the Port Authority on March 20, 2023. Port Commission Minute No. 2023-1212-__ approving, among other things, the form of this Amended and Restated Certificate of Formation, has been adopted by the Port Commission of the Port Authority on December 12, 2023.

IN WITNESS WHEREOF, I have hereunto set my hands this ____ day of [December, 2023.]



Roger Guenther
Executive Director

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared Roger Guenther, known to me to be the person whose name is subscribed to the foregoing instrument, and being first duly sworn has declared that the statements therein contained are true and correct and has executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this ____ day of December, 2023.

Notary Public in and for
the State of Texas

IN WITNESS WHEREOF, I have hereunto set my hands this ____ day of [December, 2023.]

Erik Eriksson
Secretary

THE STATE OF TEXAS §
 §
COUNTY OF HARRIS §

BEFORE ME, the undersigned authority, on this day personally appeared Erik Eriksson, known to me to be the person whose name is subscribed to the foregoing instrument, and being first duly sworn has declared that the statements therein contained are true and correct and has executed the same for the purposes and consideration therein expressed.

GIVEN UNDER MY HAND AND SEAL OF OFFICE this ____ day of December, 2023.

Notary Public in and for
the State of Texas

AMENDED AND RESTATED

BYLAWS

OF

PORT HOUSTON LOCAL GOVERNMENT CORPORATION

A Texas Local Government Corporation

Created on behalf of the Port of Houston Authority of Harris County, Texas

Date of Adoption: [December 12, 2023]

Minute No. [LGC-2023-1212-__]

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ARTICLE I PURPOSES

These Amended and Restated Bylaws amend and restate, and replace in their entirety, the prior Bylaws of Port Houston Local Government Corporation dated May 23, 2023, and shall be effective as of [December 12, 2023] (the “Effective Date”).

Port Houston Local Government Corporation (the “Corporation”) is organized and operated as a public nonprofit local government corporation. The Corporation is further organized to accomplish any governmental purpose of the Port of Houston Authority of Harris County, Texas (the “Port Authority”).

The Corporation is formed pursuant to the provisions of Subchapter D of Chapter 431, Texas Transportation Code (the “Act”) as it now or may hereafter be amended, and Chapter 394, Texas Local Government Code, which authorize the Corporation to assist and act on behalf of the Port Authority to accomplish any governmental purpose of the Port Authority and to engage in activities in furtherance of the purposes for its creation; the provisions of Chapter 22, Texas Business Organizations Code; and the provisions of Title I of the Texas Business Organizations Code applicable to nonprofit corporations.

The Corporation shall have and exercise all of the rights, powers, privileges, authority, and functions given by the general laws of Texas to nonprofit corporations incorporated under the Act including, without limitation, the Texas Business Organizations Code.

The Corporation shall have all other powers of a like or different nature not prohibited by law which are available to nonprofit corporations in Texas and which are necessary or useful to enable the Corporation to perform the purposes for which it is created, including the power to issue bonds, notes or other obligations, and otherwise exercise its borrowing power to accomplish the purposes for which it was created, provided that the Corporation shall not issue bonds, notes or other obligations without the consent of the Port Commission of the Port Authority (the “Port Commission”).

The Corporation is created as a local government corporation pursuant to the Act and shall be a governmental unit within the meaning of Subdivision (3), Section 101.001, Texas Civil Practice and Remedies Code. The operations of the Corporation are governmental and not proprietary functions for purposes of the Texas Tort Claims Act, Section 101.001 et seq., Texas Civil Practice and Remedies Code.

ARTICLE II BOARD OF DIRECTORS

Section 1. Appointment, Powers, Number, and Term of Office. All powers of the Corporation shall be vested in a Board of Directors (the “Board”). The Board shall consist of seven (7) persons, each of whom shall be a “Director,” or such other number of Directors as is equal to the number of Port Commission members (“Port Commissioner”), including the chair of

the Port Commission. The initial Directors were those persons set forth in the Corporation's initial Certificate of Formation (as amended and restated, the "Certificate of Formation").

The Chair of the Board (the "Chair") shall be a Director and shall always be the then-current chair of the Port Commission. Upon appointment of the Chair pursuant to this Section 1 and the Certificate of Formation, the Chair's term of office shall be coterminous with the term of office of the chair of the Port Commission.

The remaining Directors shall always be the then-current remaining Port Commissioners, and shall be deemed to have been appointed by the Port Commission.

Port Commissioners appointed to terms commencing on odd-numbered years shall be deemed appointed for an initial term as Director that will commence on the date of appointment and will expire on January 31 of the next odd-numbered calendar year, while Port Commissioners appointed to terms commencing on even-numbered years shall be deemed appointed for an initial term that will commence on the date of appointment and will expire on January 31 of the next even-numbered calendar year.

All subsequent appointments shall be for two-year terms, and each term will commence on February 1 of the relevant term-appointment year and end on January 31 of the relevant term-expiration year, coterminous with the term of office of the corresponding position on the Port Commission.

Each Director shall serve for the applicable term as described above, or until his or her successor is deemed appointed by the Port Commission, unless such Director has been appointed to fill an unexpired term, in which case the term of the Director shall expire on the expiration date of the term of the Director whose position he or she was appointed to fill.

The resignation, removal, or other termination of service by or of a Port Commissioner shall be deemed to be a termination of that person's service as Director. Furthermore, any Director may be removed from office in the manner established by the laws of the State of Texas.

Section 2. Board Meetings. The Board may hold meetings and may have an office and keep the books of the Corporation at such place or places within the jurisdictional boundaries of the Port Authority as the Board may from time to time determine; provided, however, in the absence of any such determination, such place shall be the registered office of the Corporation in the State of Texas.

The Board shall meet in accordance with and file notice of each meeting of the Board for the same length of time and in the same manner and location as is required of the Port Authority under Chapter 551, Texas Government Code (the "Open Meetings Act").

The Corporation, the Board, and any committee of the Board exercising the powers of the Board are subject to Chapter 552, Texas Government Code.

Section 3. Annual Meetings. The annual meeting of the Board shall be held at the time

and at the location as designated by resolution of the Board, within the jurisdictional boundaries of the Port Authority, for the purposes of transacting such business as may be brought before the meeting.

Section 4. Regular Meetings. Regular meetings of the Board shall be held at such times and places as shall be designated, from time to time, by the Chair.

Section 5. Special and Emergency Meetings. Special and emergency meetings of the Board shall be held whenever called by the Chair or by two of the Directors who are serving duly appointed terms of office at the time the meeting is called.

The Secretary shall give notice of each special meeting in person, by telephone, electronic mail, or mail, at least seventy-two (72) hours before the meeting, to each Director and to the public in compliance with the Open Meetings Act, and provided further that a special meeting called by two Directors shall be conducted no later than twenty-one (21) days following their call for the meeting. A Director may waive notice of any special meeting, whether before or after the time of the meeting, by a signed waiver thereof. Attendance of a Director at a special meeting shall also constitute a waiver of notice of such meeting, except when a Director attends a special meeting for the express and announced purpose of objecting to the transaction of any business, on the grounds that the meeting was not lawfully called or convened, which objection shall be made at the beginning of the meeting with the request that such objection be entered into the minutes of the meeting.

Notice of each emergency meeting shall be given in the manner required of the Port Authority under Section 551.045 of the Open Meetings Act.

Unless otherwise indicated in the notice thereof, any and all matters pertaining to the purposes of the Corporation may be considered and acted upon at a special or emergency meeting, to the extent allowed by the Open Meetings Act. At any meeting at which every Director shall be present, even though without any notice, any matter pertaining to the purposes of the Corporation may be considered and acted upon to the extent allowed by the Open Meetings Act.

Section 6. Quorum. A majority of the appointed positions of the Board shall constitute a quorum for the consideration of matters pertaining to the purposes of the Corporation. If at any meeting of the Board there is less than a quorum present, a majority of those present may adjourn the meeting from time to time. The act of a majority of the Directors present and voting at a meeting at which a quorum is in attendance shall constitute the act of the Board, unless the act of a greater number is required by law, by the Certificate of Formation, or by these Bylaws.

A Director who is present at a meeting of the Board at which any corporate action is taken shall be presumed to have assented to such action unless his or her dissent shall be entered in the minutes of the meeting or unless he or she shall file his or her written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof, or shall forward such dissent by registered mail to the Secretary of the Corporation immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Director who voted in favor of the action.

Section 7. Participation by Telephone Conference and Videoconference. In accordance with the Open Meetings Act, members of the Board may participate in and hold meetings of the Board by means of visible and audible presence in a videoconference, to the same extent as a governmental body may within the meaning of the Open Meetings Act, and participation in such a meeting shall constitute presence of the person at such meeting. Notice of such virtual or hybrid meetings shall be given in accordance with the Open Meetings Act.

Section 8. Conduct of Business. The Chair shall establish the proposed agenda for each meeting of the Board, with the assistance of the Executive Director.

The Chair shall add any items requested by a Director to the proposed agenda of a regular meeting, or special or emergency meeting called by the Chair. The Directors calling a special or emergency meeting shall add any items requested by the Chair or any other Directors to the proposed agenda of such special or emergency meeting.

Upon the request of any Director, consideration of, or action on, an item placed on the agenda at a regular, special, or emergency meeting shall be deferred until the next meeting of the Corporation, provided such deferral will not cause undue hardship, increase the cost of a matter under consideration, or render the item moot. An item may only be deferred once by request of the Directors.

The Chair shall preside at all meetings of the Board, but in the absence of the Chair, the Director appointed by the Chair to so serve, or if one has not been designated by the Chair to serve, the senior-most Director in attendance, shall preside at such meeting as Chair Pro Tem.

The Secretary shall act as secretary of all meetings of the Board, but in the absence of the Secretary, the presiding officer may appoint any person to act as secretary of the meeting.

Section 9. Committees. The Chair may from time to time appoint committees for the purpose of considering particular matters related to the Corporation and its operations. Committee membership is limited to Directors, and all such appointments shall be recorded in the minutes of the Board meeting. Any committee meeting at which less than a quorum of the Board is present (and that is not a meeting under the Open Meetings Act) may be held by means of a remote communications technology system (such as conference telephone, videoconferencing technology, or the Internet) if the system allows each person participating in the meeting to communicate concurrently with each other participant. Participation in such a meeting shall constitute presence of the person at such meeting.

Section 10. Compensation of Directors. Directors, as such, shall not receive any salary or compensation for their services as Directors, but shall be entitled to reimbursement for reasonable expenses actually incurred in performing services as a director.

Section 11. Director's Reliance on Information. A Director shall not be liable if while acting in good faith and with ordinary care, he or she relies on information, opinions, reports, or statements, including financial statements and other financial data, concerning the Corporation or

another person, that were prepared or presented by:

- (a) one or more other officers or employees of the Corporation;
- (b) legal counsel, public accountants, or other persons as to matters the officer reasonably believes are within the person's professional or expert competence; or
- (c) a committee of the Board of which the Director is not a member.

ARTICLE III OFFICERS

Section 1. Titles and Term of Office. The officers of the Corporation shall be the executive director (the "Executive Director"), a secretary (the "Secretary"), a treasurer (the "Treasurer"), and such other officers as the Board may from time to time elect or appoint, which may include, but is not limited to, one or more assistant secretaries (each, an "Assistant Secretary"), one or more assistant treasurers (each, an "Assistant Treasurer"), a chief legal officer (the "Chief Legal Officer"), and a parliamentarian (the "Parliamentarian"). One person may hold more than one office, except that the offices of the Executive Director and the Secretary may not be held by the same person. The term of office for each officer shall be two (2) years commencing with the date of the meeting of the Board at which each such officer is elected, or until his or her successor is appointed by the Board.

All officers shall be subject to removal, with or without cause, at any time by a vote of a majority of the whole Board.

A vacancy in the office of any officer shall be filled by the Board.

Section 2. Powers and Duties of the Executive Director. The Executive Director shall be the principal executive officer of the Corporation and, subject to the authority of the Board, shall be in general charge of the properties and affairs of the Corporation. Such delegation of powers and duties shall not include those specifically reserved to the Board under the laws of the State of Texas, these Bylaws, and as the Board may specify from time to time. In furtherance of the purposes of the Corporation and subject to any limitations contained in the Certificate of Formation, the Chair or Executive Director may sign and execute all bonds, notes, deeds, conveyances, franchises, assignments, mortgages, notes, contracts, and other obligations in the name of the Corporation.

Section 3. Secretary and Assistant Secretaries. The Secretary may be a member of the Board or the Chief Legal Officer of the Port Authority. The Secretary shall keep the minutes of all meetings of the Board in books provided for that purpose; he or she shall attend to the giving and serving of all notices; in furtherance of the purposes of the Corporation and, subject to any limitations contained in the Certificate of Formation, he or she may sign with the Executive Director in the name of the Corporation and/or attest the signatures thereof, all contracts, conveyances, franchises, bonds, deeds, assignments, mortgages, notes and other instruments of the Corporation; he or she shall have charge of the Corporation's books, records, documents and instruments, except the books of account and financial records and securities, of which the Treasurer shall have custody and charge, and such other books and papers as the Board may direct,

all of which shall at all reasonable times be open to the inspection of any Director upon application at the office of the Corporation during business hours; and he or she shall in general perform all duties incident to the office of Secretary, subject to the control of the Board.

If the Board elects or appoints one or more Assistant Secretaries, the Assistant Secretary shall have such powers and duties as may be assigned to him or her by the Board or the Secretary, including the performance of the duties of the Secretary upon the death, absence, disability, or resignation of the Secretary, or upon the Secretary's inability to perform the duties of his or her office. Any action taken by the Assistant Secretary in the performance of the duties of the Secretary shall be conclusive evidence of the absence or inability to act of the Secretary at the time such action was taken.

Section 4. Treasurer and Assistant Treasurers. The Treasurer shall have custody of all the funds and securities of the Corporation which come into his or her hands. When necessary or proper, he or she may endorse, on behalf of the Corporation, for collection, checks, notes and other obligations, and shall deposit the same to the credit of the Corporation in such bank or banks or depositories as shall be designated in the manner prescribed by the Board; he or she may sign all receipts and vouchers for payments made to the Corporation, either alone or jointly with such other officer as is designated by the Board; whenever required by the Board, he or she shall render a statement of his or her case account; he or she shall enter or cause to be entered regularly, in the books of the Corporation to be kept by him or her for that purpose, full and accurate accounts of all moneys received and paid out on account of the Corporation; he or she shall perform all acts incident to the position of Treasurer, subject to the control of the Board; and he or she shall, if required by the Board, give such bond for the faithful discharge of his or her duties in such form as the Board may require.

If the Board elects or appoints one or more Assistant Treasurers, the Assistant Treasurer shall have such powers and duties as may be assigned to him or her by the Board or the Treasurer, including the performance of the duties of the Treasurer upon the death, absence, disability, or resignation of the Treasurer, or upon the Treasurer's inability to perform the duties of his or her office. Any action taken by the Assistant Treasurer in the performance of the duties of the Treasurer shall be conclusive evidence of the absence or inability to act of the Treasurer at the time such action was taken.

Section 5. Chief Legal Officer; Parliamentarian. The Port Authority's Chief Legal Officer shall be the Chief Legal Officer of the Corporation, and he or she or his or her designated representative shall serve as the Parliamentarian to the Corporation.

The latest version of *Robert's Rules of Order*, as from time-to-time revised, shall govern the proceedings of the Board and its committees, except where inconsistent with the laws of the State of Texas or these Bylaws. The Chief Legal Officer of the Corporation shall maintain a copy of the latest version of *Robert's Rules of Order* in the offices of the Corporation, and shall provide each Director with *Robert's Rules of Order, Newly Revised, In Brief*, as from time-to-time revised, or its successor or an equivalent publication.

Section 6. Compensation. Officers who are not Directors may be entitled to receive

such salary or compensation for personal services which are necessary and reasonable in carrying out the Corporation's purposes as the Board may from time to time determine, provided, that in no event shall the salary or compensation be excessive. Directors, even in their capacity as officers, are not entitled to salary or compensation, but shall be entitled to reimbursement for reasonable expenses actually incurred in performing services as a director, as contemplated in Article II, Section 10.

Section 7. Officer's Reliance on Information. In the discharge of a duty imposed or power conferred on an officer of the Corporation, the officer may in good faith and with ordinary care rely on information, opinions, reports, or statements, including financial statements and other financial data, concerning the Corporation or another person, that were prepared or presented by:

(a) one or more other officers or employees of the Corporation, including members of the Board; or

(b) legal counsel, public accountants, or other persons as to matters the officer reasonably believes are within the person's professional or expert competence.

ARTICLE IV MISCELLANEOUS PROVISIONS

Section 1. Fiscal Year. The fiscal year of the Corporation shall be the same as the fiscal year of the Port Authority.

Section 2. Seal. The seal of the Corporation shall be such as from time to time may be approved by the Board.

Section 3. Notice and Waiver of Notice. Whenever any notice, other than public notice of a meeting given to comply with the Open Meetings Act, is required to be given under the provisions of these Bylaws, such notice shall be deemed to be sufficient if given by electronic mail, or by hand when delivered to the person entitled thereto at his or her usual business or residence address, as it appears on the books of the Corporation, and such notice shall be deemed to have been given on the day of such delivery or transmittal by electronic mail. A waiver of notice, signed by the person or persons entitled to said notice, whether before or after the time stated therein, shall be deemed equivalent thereto.

Section 4. Resignations. Any Director or officer may resign at any time. Such resignations shall be made in writing and shall take effect at the time specified therein, or, if no time be specified, at the time of its receipt by the Executive Director or Secretary. The acceptance of a resignation shall not be necessary to make it effective, unless expressly so provided in the resignation.

Section 5. Gender. References herein to the masculine gender shall also refer to the feminine in all appropriate cases and vice versa.

Section 6. Appropriations and Grants. The Corporation shall have the power to

request and accept any appropriation, grant, contribution, donation, or other form of aid from the federal government, the State of Texas, any political subdivision or municipality in the State of Texas, or from any other source.

Section 7. *Contract for Operational and Other Services and Resources.* The Corporation may contract with the Port Authority to utilize officers, employees and other resources of the Port Authority for the provision of operational, management, financial, legal, administrative, and other services and resources to the Corporation.

ARTICLE V INDEMNIFICATION OF DIRECTORS AND OFFICERS

Section 1. *Right to Indemnification.* Subject to the limitations and conditions as provided in this Article V and the Certificate of Formation, each person who was or is made a party or is threatened to be made a party to or is involved in any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitrative, or investigative (hereinafter, a “proceeding”), and any appeal in such a proceeding or any inquiry or investigation that could lead to such a proceeding, by reason of the fact that he or she, or a person of whom he or she is the legal representative, is or was a Director or officer of the Corporation, or while a Director or officer of the Corporation is or was serving at the request of the Corporation as a manager, director, officer, partner, venturer, proprietor, trustee, employee, agent, or similar functionary of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan, or other enterprise, shall be indemnified by the Corporation to the fullest extent permitted by law (but, in the case of any amendment of any such law, only to the extent that such amendment permits the Corporation to provide broader indemnification rights than such law permitted the Corporation to provide prior to such amendment) against judgments, penalties (including excise and similar taxes and punitive damages), fines, settlements and reasonable expenses (including, without limitation, attorneys’ fees) actually incurred by such person in connection with such proceeding, or any inquiry or investigation that could lead to such a proceeding, and indemnification under this Article V shall continue as to a person who has ceased to serve in the capacity which initially entitled such person to indemnity hereunder. In addition to the foregoing, the Corporation shall, upon request of any such person described above and to the fullest extent permitted by law, pay or reimburse the reasonable expenses incurred by such person in any proceeding or any inquiry or investigation that could lead to such a proceeding in advance of the final disposition of such proceeding. The rights granted pursuant to this Article V shall be deemed contract rights, and no amendment, modification or repeal of this Article V shall have the effect of limiting or denying any such rights with respect to actions taken or proceedings arising prior to any such amendment, modification, or repeal. It is expressly acknowledged that the indemnification provided in this Article V could involve indemnification for negligence or under theories of strict liability, and this right of indemnification shall not be exclusive of other rights to which such Director or officer may be entitled.

Section 2. *Representation; Advance Payment.* Absent a conflict of interest, a Director, officer, or other person indemnified hereunder named as a defendant along with the Corporation shall be defended by the Corporation’s counsel in such matter. In such event or in the event that separate counsel is determined to be in the best interest of the Corporation, the right to

indemnification conferred in this Article V shall include the right to be paid in advance or reimbursed by the Corporation the reasonable expenses incurred by a person of the type entitled to be indemnified under this Article V who was, is or is threatened to be made a named defendant or respondent in a proceeding in advance of the final disposition of the proceeding and without any determination as to the person's ultimate entitlement to indemnification; provided, however, that the payment of such expenses incurred by any such person in advance of the final disposition of a proceeding, shall be made only upon delivery to the Corporation of a written affirmation by such person of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification under this Article V and a written undertaking, by or on behalf of such person, to repay all amounts so advanced if it shall ultimately be determined that such indemnified person is not entitled to be indemnified under this Article V or otherwise. Without limiting the foregoing, in the event a criminal conviction of a Director, officer, or other previously indemnified person hereunder, or a finding of breach of the duty of loyalty to the Corporation or official misconduct on the part of such person, results from any such matter, all legal expense paid by the Port Authority in connection therewith shall be reimbursed by such person.

Section 3. Indemnification of Employees and Agents. The Corporation may indemnify and advance expenses to an employee or agent of the Corporation to the same extent and subject to the same conditions under which it may indemnify and advance expenses to Directors and officers under this Article V; and the Corporation may indemnify and advance expenses to persons who are not or were not Directors, officers, employees, or agents of the Corporation but who are or were serving at the request of the Corporation as a Director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic corporation, partnership, joint venture, sole proprietorship, trust, employee benefit plan, or other enterprise against any liability asserted against him or her and incurred by him or her in such a capacity or arising out of his or her status as such a person to the same extent that it may indemnify and advance expenses to Directors and officers under this Article V.

Section 4. Appearance as a Witness. Notwithstanding any other provision of this Article V, the Corporation may pay or reimburse expenses incurred by a Director, officer, or other person in connection with his or her appearance as a witness or other participation in a proceeding involving the Corporation or its business at a time when he or she is not a named defendant or respondent in the proceeding.

Section 5. Non-exclusivity of Rights. The right to indemnification and the advancement and payment of expenses conferred in this Article V shall not be exclusive of any other right which a Director or officer, or other person indemnified pursuant to Section 3 of this Article V, may have or hereafter acquire under any law (common or statutory), provision of the Certificate of Formation or these Bylaws, agreement, vote of disinterested Directors, or otherwise.

Section 6. Insurance. It is the intent of the Corporation to protect the Directors, officers, and other persons who may be indemnified hereunder from defense expense and legal liability through the purchase of appropriate public officials liability insurance, and such other liability insurance as the Corporation obtains and maintains in force and effect. Accordingly, the Corporation may purchase and maintain insurance, at its expense, to protect itself and any person who is or was serving as a Director, officer, employee, or agent of the Corporation, or is or was

serving at the request of the Corporation as a manager, director, officer, partner, venturer, proprietor, trustee, employee, agent, or similar functionary of another foreign or domestic corporation, partnership, joint venture, proprietorship, employee benefit plan, trust, or other enterprise against any expense, liability, or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability, or loss under this Article V.

Section 7. Notification. Any Director, officer, or other person who may be indemnified hereunder who receives notice of a suit, proceeding, subpoena, investigation, or demand related to his or her service to the Corporation shall promptly inform the Chief Legal Officer of the Corporation, who shall determine the applicability of the Corporation's insurance coverage, and oversee and review requests for funding of any legal expense in connection therewith. Furthermore, any Director, officer, or other person requesting indemnification hereunder shall regularly report to the Board regarding the matters that may be subject to such indemnification, as necessary to keep the Board reasonably informed as to such matters, provided that any indemnification or advance of expenses to such person in accordance with this Article V shall be reported in writing to the members of the Board with or before the notice of the next regular meeting of the Board.

Section 8. Heirs, Executors, and Administrators. The indemnification provided herein shall inure to the benefit of the heirs, executors, and administrators of Directors, officers, and other persons indemnified hereunder.

Section 9. Savings Clause. If this Article V or any portion hereof shall be invalidated on any ground by any court of competent jurisdiction, then the Corporation shall nevertheless indemnify and hold harmless each Director, officer, or any other person indemnified pursuant to this Article V as to costs, charges, and expenses (including attorneys' fees), judgments, fines, and amounts paid in settlement with respect to any action, suit or proceeding, whether civil, criminal, administrative or investigative, to the full extent permitted by any applicable portion of this Article V that shall not have been invalidated and to the fullest extent permitted by applicable law.

ARTICLE VI AMENDMENTS

A proposal to alter, amend, or repeal these Bylaws shall be made by the affirmative vote of a majority of the full Board at any annual or regular meeting, or at any special meeting if notice of the proposed amendment be contained in the notice of said special meeting. However, any proposed change or amendment to the Bylaws must be approved by the Port Commission to be effective.

G. BUSINESS EQUITY

Subject	1. Approve the year three funding of a professional services contract with Nurseify, LLC D/B/A Culture Advisors (formerly IMC Culture) for assistance with implementation of a Diversity, Equity, and Inclusion plan initiative in an amount not to exceed \$332,900.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting, approve the year three funding of a professional services contract with Nurseify, LLC D/B/A Culture Advisors (formerly IMC Culture) for assistance with implementation of a Diversity, Equity, and Inclusion plan initiative in an amount not to exceed \$332,900, and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:

Awards, Amendments & Change Orders

Department:

Business Equity

Staff Contact:

Maxine Buckles

Background:

By Minute No. 2020-0128-06, the Port Commission approved and adopted the 2020 Strategic Plan. The Port Authority's 2020 Strategic Plan included the goal to "Be the Best Place to Work," with an objective to foster a culture of diversity and inclusion, innovation, and open communication.

Since that time, numerous efforts have been undertaken by the Port Authority to carry out the diversity, equity, and inclusion (DEI) elements of that objective.

By Minute No. 2021-0521-05, the Port Commission adopted a formal position statement to express the Port Authority's commitment to DEI, and solidify the organization's pledge to foster a culture of diversity and inclusion:

Diversity, Equity, Inclusion. These principles are interwoven with the Port Authority's core values and would become part of our fabric and foundation. We are committed to doing what is right within our organization and throughout our community.

The DEI Position Statement was the first of many steps the Port Authority has taken to achieve the Strategic Plan DEI goals.

By Minute No. 2021-0720-35, the Port Commission approved a professional services contract with Nurseify, LLC D/B/A Culture Advisors (formerly IMC Culture) to perform a DEI assessment and assist staff with the development of a DEI plan. IMC has performed the comprehensive organizational analysis, and the DEI plan which was completed in February 2022.

By Minute No. 2022-0224-09, the Port Commission approved a second professional services contract with the firm to assist Port Authority staff with the implementation of the DEI plan initiatives, and by Minute No. 2022-1206-07, the Port Commission approved renewal of that contract.

The goal of the DEI Plan is to align the Port Authority's internal DEI efforts as well as the external efforts in Business Equity and Community Engagement. This is anticipated to be an ongoing commitment involving 3 to 5 years of focused actions. The requested contract would continue our DEI

efforts by allowing the firm to continue to assist Port Authority staff with the implementation of the DEI Plan, including, but not limited to, additional analyses and organization-wide assessments as may be required.

Staff Evaluation/Justification:

Staff believes that based on the firm's experience with DEI plan analyses, development, and implementation, in addition to its familiarity with the Port Authority, that it is the firm best suited to assist Port Authority staff with the continued implementation of the DEI plan. At its October 24, 2023, meeting the Business Equity Committee acted to recommend that the Port Commission approve this renewal option.

Accordingly, staff recommends that the Port Commission approve the exercise of the second renewal option for year three funding for this contract.

G. BUSINESS EQUITY

Subject	2. Amend the Minority- and Woman-Owned Business Enterprise Development Policy.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting, approve the Amended Minority- and Woman-Owned Business Enterprise Development Policy, and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:
General

Department:
Legal

Staff Contact:
Erik Eriksson

Background:

The Port Commission first adopted the Port Authority Minority- and Woman-Owned Business Enterprise (MWBE) Development Policy in April 2021, in order to include race- and gender-conscious elements in its contracting process when appropriate. The measures provided for in the policy are narrowly tailored to help ameliorate disparities in the participation of minority- and woman-owned business enterprises in Port Authority contracting.

Since that time, the Port Authority has established a program to administer the policy, and made major strides towards achieving its annual aspirational goal for the participation of MWBEs in eligible contracts.

Staff is now proposing various definitional and other changes to the policy. The proposed revisions include changing the threshold amount to which the policy applies, i.e., "formal" procurements, from \$50,000 to \$100,000, to conform to a recent change in the Water Code. Other proposed revisions include removing provisions related to Disadvantaged Business Entities – "DBEs," and removing the "target" scoring method that applies only to small business procurements. The definition of "Minority Person" would be revised to link it to 49 C.F.R. 26 (Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs), so that the Port Authority's definition would update in tandem with the federal regulations.

Staff Evaluation/Justification:

At its October 24, 2023 meeting, the Business Equity Committee of the Port Commission acted to recommend that the Port Commission approve the amended MWBE Development Policy. Accordingly, staff recommends that the Port Commission approve this amended policy in the form attached.

**Port of Houston Authority
Minority- and Woman-Owned Business Enterprise Development Policy
Amended December 2023**



I. Purpose.

The purpose of this Minority- and Woman-Owned Business Enterprise Development Policy (the “Policy”) is to establish the Port of Houston Authority Minority- and Woman-Owned Business Enterprise Development Program (the “Program”), set out principles guiding the Program, and authorize and assign responsibilities for carrying out its requirements.

II. Policy Statements.

A. It is the long-standing policy of the Port of Houston Authority (the “Non-Discrimination Mandate”) to prohibit discrimination based on race, color, sex, religion, national or ethnic origin, age, or disability, and including any other status protected by applicable law, in all operations at the Port Authority, including the award of, or participation in, Port Authority contracts.

B. The Port Authority is committed to equal opportunity for small, minority- and woman-owned businesses to participate in the award and performance of Port Authority contracts.

C. It is the policy of the Port Authority to ensure competitive business opportunities for small, minority- and woman-owned business enterprises in the award and performance of Port Authority contracts and abolish barriers to full participation in Port Authority contracts by all persons, regardless of race, ethnicity, or sex.

D. It is the policy of the Port Authority to promote commerce and business diversity by supporting the development of small, minority- and woman-owned businesses.

III. Background.

A. The Port of Houston Authority Small Business Development Program, effective January 1, 2002, was adopted by the Port Commission as the coordinated program of activities and procedures for encouraging local small business participation and creating opportunities in Port Authority procurement and contracting.

B. The Port Commission, in furtherance of the policies and commitments as set forth in its Policy Statements above and desiring to include race- and gender-conscious elements to the Port Authority’s contracting process, if appropriate, awarded to Griffin & Strong, P.C., a contract to perform disparity study research to meet the requirements of constitutional strict scrutiny required by the United States Supreme Court in *City of Richmond v. J.A. Croson Co.*, 488 U.S. 469 (1989).

C. A summary of research conducted in connection with the “Port of Houston Authority 2020 Disparity Study” prepared by Griffin & Strong, P.C. (the “Draft Disparity Study”)

was presented to the Port Commission, the governing body of the Port Authority, on December 8, 2020. Among other results the draft research indicated disparities between the availability of minority- and woman-owned business enterprises (“M/WBEs”) in the Port Authority’s relevant marketplace, and the utilization by the Port Authority of those M/WBEs seeking to do business with the Port Authority.

D. The Draft Disparity Study recommended measures to assist the Port Authority’s efforts to help ensure that all qualified firms within the Port Authority’s relevant marketplace would be given the opportunity to successfully conduct business with the Port Authority.

E. The State of Texas, Harris County, and the City of Houston have also conducted disparity studies which have established that M/WBEs or historically underutilized businesses in the applicable jurisdiction’s market area experience disparities in access to the jurisdiction’s contracts.

F. These studies have each recommended that the applicable jurisdiction employ measures to address their findings, and each jurisdiction has adopted programs to do so.

G. The Port Authority is similarly committed to implementing and maintaining a contracting program in conformance with the *City of Richmond v. J.A. Croson Co.* decision and applicable law, including employing measures that are narrowly tailored to help ameliorate disparities in the participation of minority- and woman-owned business enterprises in Port Authority contracting.

IV. Definitions.

When used in this Policy, the following terms shall have the following meanings:

A. “Aspirational Goal” means the Port Authority’s overall total target for the participation of M/WBEs in Eligible Contracts, as determined by the Port Commission from time to time, expressed as the percentage that the Port Authority strives to achieve, of Contract amounts awarded and committed to M/WBEs *compared to* total amounts awarded in Eligible Contracts.

B. “Availability” means the pool of Businesses ready, willing, and able to perform the applicable Contract or Contract task, including, where special qualifications are necessary, qualified to undertake the particular portion of the work of the Contract or Contract task.

C. “Bid” means a Bidder’s response to a solicitation for bids, proposals, or statements of qualifications for a Contract that is at least partially funded by the Port Authority.

D. “Bidder” means an individual, a business enterprise, including a sole proprietorship, a partnership, a corporation, a not-for-profit corporation, a limited liability company, or any other entity which has submitted a Bid in response to a Port Authority solicitation, regardless of the procurement method employed by the Port Authority or the type of goods or

services sought.

E. “Business,” or “Business Enterprise” means a for-profit (i) sole proprietorship or (ii) entity, with a place of business located in the United States.

F. “Business Equity Division” means the Port Authority division or the successor Port Authority division responsible for the Program.

G. “Business Equity Division Head” means the senior-most staff leader of the Business Equity Division.

H. “Certified” means an MBE or WBE (as each such group is defined herein) that has the applicable certification from an authorized certifying agency as recognized and approved by the Port Authority from time to time.

I. “Commercially Useful Function” means Contract work that a Business controls and executes or for which it is directly responsible for executing by actually performing, managing, and supervising the work, including negotiating price, determining quality and quantity, ordering, installing, and paying for materials, supplies, and services as applicable. An MWBE participating on a Contract as a supplier performs a Commercially Useful Function when it sells materials, supplies, articles, or equipment out of its own inventory from a warehouse, yard, or other facility that it owns or leases. An MWBE does not perform a Commercially Useful Function if it fulfills an order for a customer by ordering, purchasing, or receiving supplies from a third-party supplier rather than out of its own inventory.

J. “Committee” means the Port Commission Business Equity Committee, or the successor Port Commission committee or task force carrying out Program responsibilities as provided herein.

K. “Compliance” means that the applicable Port Authority department, or Business, properly implements the requirements of this Policy and the Program.

L. “Contract” means a mutually-binding legal relationship, or any modification thereof, obligating the vendor to furnish services and/or materials and supplies to the Port Authority and the Port Authority to pay for them, and excluding any sale, purchase, lease, license, or permit of real property; agreement with or payment to another governmental entity; employer/employee relationship; utility agreement; settlement agreement; or agreement with any not-for-profit entity.

M. “Contract Goal” means the goal for participation of MBEs and/or WBEs applicable to a specific Eligible Contract solicitation, which goal is determined based on the percentage Availability of MBEs and/or WBEs to perform the specific weighted scopes of work of the entire Contract, the Port Authority’s utilization of MBEs and WBEs to date, the Port Authority’s progress towards meeting the Aspirational Goal, and other relevant factors.

N. “Contractor” means any Business that enters into a Contract with the Port Authority, and includes members of any Joint Venture comprising such Business.

O. “DBE” means a Business defined as a Disadvantaged Business Entity in the regulations governing the federal Disadvantaged Business Enterprise program, currently set forth in 49 C.F.R. Part 26, as amended.

P. “Draft Disparity Study” means the draft report titled “Port of Houston Authority 2020 Disparity Study” prepared by Griffin & Strong, P.C.

Q. “Eligible Contract” means a Contract, in an amount expected to exceed \$100,000 (or any other amount as currently authorized under Texas Water Code Section 60.403(a) for routine purchases or contracts) (i) subject to the requirements of this Program and to which a Contract Goal may be applied, and (ii) not including Excluded Contracts and Exempted Contracts, as defined herein.

R. “Enrolled M/WBE” means a Certified MBE or WBE that has completed the Port Authority’s Enrollment Process and has received confirmation from the Port Authority of its status as an Enrolled M/WBE in the Program.

S. “Enrollment Process” means the process by which a Certified MBE or WBE becomes an Enrolled M/WBE, permitting its participation in an Eligible Contract to be counted toward the Aspirational Goal and a Contract Goal.

T. “Excluded Contract” is a Contract not subject to this Policy because it is:

- Purchase of an item that can be obtained only from one source, as provided under the Texas Water Code Section 60.412(a)(7);
- All or partially state- or federally-funded, and may be subject to other requirements in connection with such funding;
- Awarded pursuant to a procurement for which consideration of such status is prohibited by law;
- A purchase through a Port-Authority-approved group or cooperative purchase program for which purchase the Port Authority does not control the solicitation; or
- Not a Contract as defined herein.

M/WBEs are encouraged to Bid on an Excluded Contract, but there is no individual participation Contract Goal for such Excluded Contract.

U. “Exempted Contract” is a Contract for which the owner’s status as an MBE or WBE is not considered as a selection criterion because the Business Equity Division Head or designee, in consultation with the User Group, has determined that it meets one or more of the following criteria:

- A public or administrative emergency exists that requires the goods or services to be provided with unusual immediacy;
- Market research and past experience provide evidence of insufficient (fewer than three) qualified MBE and WBE firms in the Marketplace and no reasonable subcontracting opportunities (lack of Availability);
- A selection process that considers the Bidder’s status as an MBE or WBE would:
 - Impose an unwarranted economic burden or risk on the Port Authority;
 - Unduly delay acquisition of the goods or services; or
 - Otherwise not be in the best interest of the Port Authority (e.g., purchases for which the Port Authority intends to seek reimbursement from a third party).

M/WBEs are encouraged to Bid on an Exempted Contract, but there is no individual participation Contract Goal for such Exempted Contract.

V. “Good Faith Efforts” means efforts to achieve an MBE or WBE participation goal which efforts, by their scope, intensity, and appropriateness, can reasonably be expected to fulfill the applicable Program requirement.

W. “Joint Venture” means an association of an MBE and/or WBE and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills, and/or knowledge, and in which the MBE or WBE is wholly responsible for a distinct, clearly defined portion of the work of the Contract or Commercially Useful Function, and the share of which in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

X. “Manual” means the Port Authority Minority- and Woman-Owned Business Enterprise Program Standards and Procedures Manual, detailing the Program and the standards and procedures for implementation of the Policy and the Program.

Y. “Marketplace” means Harris, Montgomery, Fort Bend, Galveston, Brazoria, Chambers, Liberty, and Waller counties.

Z. “Minority Person” means a citizen (or lawfully admitted permanent resident) of the United States who is a member of one of the groups listed in the definition of “Socially and economically disadvantaged individual” found in 49 CFR 26.5, under subsection (2), as being rebuttably presumed to be socially and economically disadvantaged. As of the date of the latest amendment to this Policy, the groups listed in the referenced CFR subsection are:

1. “Black Americans,” which includes persons having origins in any of the Black racial groups of Africa;

2. “Hispanic Americans,” which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

3. “Native Americans,” which includes persons who are enrolled members of a federally or State recognized Indian tribe, Alaska Natives, or Native Hawaiians;

4. “Asian-Pacific Americans,” which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), Republic of the Northern Marianas Islands, Samoa, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;

5. “Subcontinent Asian Americans,” which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;

AA. “MBE” (Minority-Owned Business Enterprise) means a Business that is at least 51% Owned by one or more Minority Persons, or for which at least 51% of the equity is Owned by one or more Minority Persons, and both the management and daily business operations are carried out and controlled by one or more of the Minority Persons who own it.

BB. “M/WBEs” means MBEs and WBEs.

CC. “Owned” means the status of having all the customary incidents of ownership of a Business, including control and disposition and sharing in all risks and profits commensurate with the degree of ownership interest.

DD. “Port Authority” means the Port of Houston Authority of Harris County, Texas, a political subdivision.

EE. “Port Commission” means the governing body of the Port Authority.

FF. “Prime Contractor” means a Contractor that is awarded a Contract and is obligated to perform the Contract, including coordinating all the work of that Contract and purchasing all materials and performing services required thereunder, or contracting with Subcontractors to do so.

GG. “Procurement Services” means the Port Authority department generally responsible for acquiring goods and services for the Port Authority.

HH. “Program” means the Minority- and Woman-Owned Business Enterprise Program established by this Policy.

II. “SBDP” means the Port of Houston Authority Small Business Development Program.

JJ. “Subcontractor” means a party that enters into a subcontract agreement with a Prime Contractor to perform work or provide materials under a Contract.

KK. “User Group” means the Port Authority division, department, or other staff group that has or shares responsibility for the procuring and administering of a Contract subject to the Program.

LL. “Utilization” means the utilization by the Port Authority in Port Authority Contracts of M/WBEs from the Port Authority’s relevant marketplace. Depending on the context, Utilization may be expressed in number of firms, amount of dollars, or percentage of participation.

MM. “Utilization Plan” means the plan, in the form specified by the Port Authority, which must be submitted by a Bidder listing the M/WBEs that the Bidder intends to use in the performance of a Contract, the scopes of the work of such M/WBEs, and the dollar values and/or the percentages of the work to be performed by such M/WBEs.

NN. “WBE” (Woman-Owned Business Enterprise) means a Business that is at least 51% Owned by one or more female American citizens, or for which at least 51% of the equity is Owned by one or more female American citizens, and both the management and daily business operations are carried out and controlled by one or more of the female American citizens who own it.

V. Program Established.

A. The Port Commission hereby adopts the Program and directs the Port Authority to designate the Business Equity Division responsible for carrying out the Program as described herein. Such Business Equity Division shall also be responsible for carrying out the Port Authority’s SBDP in conjunction with the Program.

B. The Port Commission finds that the Program supports (i) the Port Authority’s statutory mandates to acquire, construct, operate, and develop waterways, facilities, and other aids, for the operation, development, or in aid of navigation and commerce of the ports and waterways within its jurisdiction, (ii) the Port Authority’s mission to “*Move the world and drive regional prosperity,*” and (iii) the Port Authority’s strategic objectives to “*Develop and Strengthen External Partnerships*” and “*Create Better Value for the Region.*”

C. It is the responsibility of all Port Authority employees, divisions, departments, and groups to be aware of this Policy and Program, and to support the Policy and Program to the greatest extent appropriate to the role of such employee, division, department, and group.

VI. Aspirational Goal.

The Port Authority hereby establishes the following Aspirational Goal for the Program:

30% of all Eligible Contract amounts should be paid to Enrolled M/WBEs by the

Port Authority.

The Port Commission reserves the right to amend or update such Aspirational Goal from time to time.

VII. Program Administration.

A. Business Equity Division Responsibilities.

1. The Business Equity Division shall have primary responsibility for the implementation and administration of the Program and all other Port Authority contracting diversity, equity, and training programs, including without limitation, working with User Groups to implement the goals and objectives of the Program. In the absence of a contrary directive by the Executive Director, the Business Equity Division Head is responsible for this Policy's implementation and interpretation.

2. The Business Equity Division shall formulate, propose, and implement the Manual, setting forth rules and regulations for the development, implementation, administration, and monitoring of the Program, and may prepare and update other standards and procedures consistent with this Policy for administration of staff services related to the Program. The Manual and all other standards and procedures developed by staff shall not contain restrictions on the authority of the Port Commission or impose obligations on the Port Commission.

3. The Business Equity Division Head or his or her designee shall periodically report to the Port Commission and Committee regarding the operations and achievements of the Program.

4. The Business Equity Division Head or his or her designee shall periodically evaluate the effectiveness of this Policy and the Program and recommend updates as needed to the Port Commission and Committee.

5. The Business Equity Division shall work in cooperation with the Port Authority's Grants Programs Manager in administering or partially administering state- or federally-funded contracts, including United States Department of Transportation-assisted contracts incorporating the requirements of the DBE program pursuant to 49 C.F.R. Part 26, where the Port Authority is either a direct recipient of United States Department of Transportation funds or is a subrecipient of such funding through another entity.

B. Program Roles and Responsibilities for User Groups.

1. Each User Group is particularly responsible for promoting, supporting, and assisting in carrying out the Program, in addition to the general responsibility of Port Authority staff to do so, and for exercising specific functions in support of the Program, as well as any other function(s) deemed necessary by the Business Equity Division to implement the goals and objectives of the Program.

2. To reduce barriers to MBE and WBE participation in Port Authority

procurements, all User Groups requesting Bids on behalf of the Port Authority shall:

a. Designate a departmental coordinator or designee, or multiple coordinators or designees, who shall be the point of contact for monitoring and reporting Compliance in the Business Equity Division.

b. Evaluate anticipated solicitations to unbundle items or services, where feasible, to permit Bids on quantities or scopes of work less than the total, or the performance of discreet portions of the project. “Unbundling” means a process whereby a Contract is divided into smaller parts to provide Enrolled M/WBEs better access and reduce barriers to Port Authority procurement opportunities. Unbundling can be divided into two types, horizontal and vertical. Horizontal unbundling divides the Contract into multiple lots. Vertical unbundling divides each lot into different phases of the procurement process, where each of the phases offers new opportunity for M/WBE participation.

c. Establish schedules for submitting Bids with adequate time frames for identifying and contacting M/WBEs qualified to submit Bids or participate in Contracts.

d. Arrange time schedules for Bid response due dates and presentations to facilitate the participation of Prime Contractors and Subcontractors qualified to submit Bids or participate in Contracts.

e. Review insurance, experience, and other award evaluations factors to facilitate the participation by M/WBEs and other small firms, while no more burdensome than necessary to protect the Port Authority’s interests.

f. Manage Contracts in a consistent manner, to assure Compliance with the Program.

g. Assist in the compilation of Contract data for M/WBE Availability and Utilization.

h. Assist and support the Business Equity Division by helping ensure that the Prime Contractor provides all necessary documents and information, for both the Prime Contractor and the Subcontractors, throughout the Project and at Project close-out. The information must include S/MWBE participation at all levels.

i. Assist and participate in training on the Program (including User Group leadership, project managers, buyers, and Program coordinators).

j. Assist and participate in workshops, trade fairs, outreach seminars, and other efforts organized by the Business Equity Division and others to help identify and increase the participation of M/WBEs in Contracts.

k. Assist and participate in classes, training programs, and other efforts organized by the Business Equity Division and others to help to increase Availability and train and mentor M/WBEs to help increase their participation in Contracts.

VIII. Race- and Gender-Neutral Measures to Ensure Equal Opportunities for all Contractors and Subcontractors.

A. Suggested Measures. In order to implement the Program, the Port Authority shall develop and use race- and gender-neutral measures to the maximum feasible extent. These measures may include, but are not limited to:

1. Providing timely information, including through the Port Authority's electronic procurement system and social media, on Port Authority contracting procedures, Bid preparation, specific Contract opportunities, and competencies sought in Port Authority Contract solicitations.

2. Holding pre-Bid conferences, where appropriate, to explain Contract opportunities and to encourage Prime Contractors to use available qualified MBEs and WBEs.

3. Arranging time schedules for Bid response due dates and presentations to facilitate the participation of Prime Contractors and Subcontractors qualified to submit Bids or participate in Contracts.

4. Establishing schedules for submitting Bids with adequate time frames for Bidders to identify and contact M/WBEs and other small businesses qualified to participate in the procurement, and for non-Certified Bidders to solicit quotes from MBE and WBE Subcontractors.

5. Segmenting procurements, where feasible, to facilitate the participation of MBEs, WBEs, and other small businesses.

6. Reviewing retainage, bonding, and insurance requirements and their application to Bid evaluations, to eliminate unnecessary barriers to contracting with the Port Authority.

7. Authorizing, where appropriate, mobilization payments to Prime Contractors and requiring that Subcontractors be remitted their proportionate share of mobilization funds, to eliminate unnecessary barriers to contracting with the Port Authority.

8. Adopting prompt payment procedures, including contractually requiring that Prime Contractors promptly pay Subcontractors, investigating complaints or charges of excessive delay in payments, and enforcing statutory and contractual prompt payment provisions.

9. Reaching out to and providing training, mentorship, and development assistance to M/WBEs and other small businesses, to increase their Availability and the number of Enrolled M/WBEs, and support their maximum participation in Contracts.

10. Providing training seminars on the technical aspects of preparing a Bid in response to a Port Authority solicitation, and education and other assistance in areas that may provide barriers to participation, such as obtaining bonding and financing, bid estimation, safety requirements, and quality control.

11. Collecting information from all Prime Contractors on applicable Contracts, detailing the quotes received from all Subcontractors for such Contracts and the payments to Subcontractors utilized by Prime Contractors on such Contracts.

12. Investigating complaints of discrimination against M/WBEs and/or referring them to the appropriate authorities for investigation.

B. Additional Measures. The Business Equity Division Head should work with User Groups to adopt additional measures as warranted.

IX. Race- and Gender-Conscious Measures to Implement the Program.

A. Eligibility. To be eligible to be counted as an MBE or WBE towards a Contract Goal, the firm must be Certified at the time of Bid submission and become an Enrolled M/WBE no later than the date of award. The Port Authority shall make available on its website and through other means a list of certifying agencies recognized and approved by the Port Authority from time to time.

B. Contract Goals. The Business Equity Division Head, in consultation with the applicable User Group, shall establish a Contract Goal for each Eligible Contract. Such determination shall be made in accordance with governing law and the Port Authority's Procurement Policy, and shall be based upon the Availability in the Marketplace of at least three Certified MBEs or three Certified WBEs to perform the anticipated scopes of work of the entire Contract, the Port Authority's utilization of MBEs and WBEs to date, the Port Authority's progress towards meeting the Aspirational Goal, and other relevant factors including the type of commodity or service procured, the procurement method used, and other Port Authority requirements.

C. Counting MBE and WBE Participation Towards Contract Goals.

1. A Bidder may achieve the Contract Goal by: (i) its own status as an MBE or WBE; (ii) entering into a Joint Venture with one or more MBEs and/or WBEs; (iii) subcontracting, at any tier, a portion of the work to one or more MBEs and/or WBEs; (iv) directly purchasing materials or services from one or more MBEs and/or WBEs; or (v) any combination of the above.

2. When the Port Authority solicits Eligible Contracts using a request for competitive sealed bid or other procurement method with a “pass/fail” Contract Goal, the solicitation document should provide that a bidder or proposer must meet the Contract Goal or provide evidence of adequate Good Faith Efforts to meet the Goal, or its Bid will be considered non-responsive.

3. When an MBE or WBE participates in a Contract, the Port Authority shall count only the payment for the work actually performed by the MBE or WBE toward the Contract Goal.

4. Only payments to an MBE or WBE that is performing a Commercially Useful Function shall be counted towards the Contract Goal.

5. Procedures and standards for counting the participation of qualified MBEs and WBEs towards a Contract Goal may additionally be provided for in the Manual.

D. Utilization Plans.

1. Utilization Plans and other Compliance documents must be submitted as provided in the procurement solicitation, and the failure to do so may render the Bid non-responsive. The Business Equity Division shall review each Bid submission to determine if it meets the Program and applicable solicitation requirements.

2. Each Bidder shall submit with its Bid a completed Utilization Plan, affirmed as correct and identifying the Businesses proposed to participate in the Contract in order to meet the Contract Goal, the type of work or service each Business would perform, the Contract amount to be paid to each Business, and such other information as provided for in the Manual.

3. The Utilization Plan shall include each Bidder’s commitment to (i) meeting or exceeding the Contract Goal set forth in the solicitation or (ii) demonstrating its Good Faith Efforts to do so.

4. Each Bidder shall submit at the time specified in the solicitation, a letter of intent for each MBE and WBE firm specified in the Bid response, affirmed as correct by the parties thereto, and evidence that each such MBE and WBE is Certified.

5. A Bidder may request a partial or total reduction of the Contract Goal, in the manner and form as specified in the Manual, based on its Good Faith Efforts to meet the Contract Goal. In the event a non-M/WBE Business was selected by a Bidder for work on the Contract instead of an MBE or WBE, the documentation of Good Faith Efforts shall include evidence of each non-M/WBE, MBE, and WBE Business proposal quote submitted to the Bidder in connection with the Bid.

6. In the event any non-M/WBE, or purported MBE or WBE other than those listed on the Utilization Plan, is performing work or providing materials and/or equipment in place of those listed on the applicable Utilization Plan, following notice to the Prime Contractor, the Port Authority may exercise remedies and penalties as provided by the Program and Manual.

E. Additional Performance Compliance Measures.

1. The successful Bidder shall submit reports of its progress towards meeting the Contract Goal and Compliance with other Program requirements, in the form and at the time specified in the solicitation or as otherwise directed by the Port Authority.

2. Subject to amendments as approved by the Port Authority, the Contract Goal obligation extends to all Contract work covered by change orders regardless of the contracting tier, and the obligation to make Good Faith Efforts to meet the Contract Goal extends to the entire performance of the Contract.

3. Port Authority Program contract compliance analysts and auditors, or their designees, should have reasonable access to the Contractor's and Subcontractor's books and records to help determine Compliance with the Contract Goal commitment and other Policy and Program requirements.

X. Enforcement and Sanctions for Non-Compliance.

A. Operational Integrity. The Program shall maintain a high level of operational integrity. The Port Authority does not allow violations of policies, standards, or procedures that harm the integrity of the Program, and may enforce sanctions to address such violations.

B. Authorization. The Port Commission authorizes sanctions against any Business that violates the provisions of this Policy, the Manual, its Contract(s), or any other document adopted to implement this Policy or Program.

1. Such violations shall include, but are not limited to, violation of the Port Authority's Non-Discrimination Mandate, falsification or misrepresentation of a Business as Certified or as an Enrolled M/WBE, failure of a Business to perform a Commercially Useful Function in connection with the applicable Contract, or any other violation of the terms of the Contract, this Policy, the Manual, or applicable Port Authority requirement.

2. Such sanctions may consist of measures up to and including Contract Termination, suspension from status as an Enrolled M/WBE for a period of up to three (3) years, and debarment from contracting with the Port Authority for a period of up to two (2) years.

3. The Port Authority may determine that sanctions imposed against a Business shall also apply personally to all those persons with control or knowledge of the acts and

omissions that give rise to the sanctions.

C. Enforcement and Investigation Provisions.

1. The Port Authority should include, in each applicable solicitation and/or Contract, provisions stating that the failure by the Business to carry out the requirements of the Program may: (i) be a breach of the Contract; (ii) result in termination of the Contract; (iii) result in denying or limiting credit towards the Contract Goal; (iv) result in withholding progress payments; (v) trigger required payment of liquidated damages; (vi) result in debarment or suspension from future Contract opportunities; and/or (vii) result in other remedies.

2. Solicitations and/or Contracts should additionally provide for reasonable access by the Port Authority to books and records of Contractors, and require Contractors to provide reasonable access to books and records of Subcontractors, to support the Port Authority's research, investigations, determinations, and enforcement of Compliance with the Program.

D. Hearings. The Manual shall provide for the Port Authority to conduct a hearing to consider whether the alleged misconduct provides grounds for the Port Authority to sanction a Business participating in the Program, and to issue sanctions if appropriate.

1. The Port Commission hereby delegates authority to the Executive Director to select a hearing officer to conduct any such hearing and impose appropriate sanctions.

2. The Manual shall provide for the details of the processes and procedures for such hearings, including but not limited to notice, conduct, issuance of decisions, and appeals.

E. Appeals.

1. Any sanction hereunder may be appealed to the Executive Director.

2. A sanction hereunder that involves suspension from status as an Enrolled M/WBE may be appealed to the Committee. The Committee may require that the appeal be heard by the Executive Director before being brought before the Committee.

3. A sanction that involves debarment may be appealed to the Port Commission. The Port Commission may require that the appeal be heard by either the Executive Director or the Committee before being brought before the Port Commission.

4. Appeals before the Executive Director, Committee, or Port Commission shall be limited to determining whether the sanctions imposed should be upheld based on evidence presented at the initial hearing.

XI. Port Commission Authority Reserved.

Port Authority procurement, including the consideration of M/WBE participation as a selection criterion, is under the sole control of the Port Commission, which approves and oversees Port Authority expenditures in conformity with Texas law, including the Texas Water Code and adopted policies. This Policy does not constrain the discretion and authority of the Port Commission, which may amend this Policy at any time for any reason.

XII. Policy and Program Authority.

A. Statutory Authority.

1. Texas Water Code, Chapters 60, 61, and 62
2. Texas Government Code, Chapter 2254
3. Texas Special District Local Laws Code, Chapter 5007

B. Port Commission Policies.

1. Amended and Restated Bylaws of the Port Commission
2. Second Amended and Restated Code of Ethics
3. Charter of the Procurement and Small Business Development Task Force
4. Procurement Policy
5. The Strategic Plan of the Port Authority as in effect from time to time

C. Savings Clause. If any provision of this Policy is inconsistent in whole or in part with Texas or federal law, then such provision shall be deemed to be modified or restricted to the extent and in the manner necessary to render the same valid and enforceable or shall be deemed excised from this Policy as may be required, and this Policy shall be deemed restated as if such provision had been originally incorporated herein as so modified or restricted or excised.

XIII. Non-binding Statement of Intent.

This Policy, the Program, and any standards and procedures established to implement them, are nonbinding statements of intent, which do not create in any person a property interest in a potential award or contract, do not constitute a contractual obligation of the Port Authority to others, and do not waive any of the Port Authority's immunities under law, including the Port Authority's immunity from suit and its immunity from liability. Nothing in this Policy or in the Program prohibits the Port Authority from rejecting any and/or all Bids received in response to a procurement solicitation. The Port Authority reserves the right to assert every defense to any claim that is available to it under law.

XIV. Adoption and Review.

A. The Committee or the Port Commission may, from time to time, evaluate the effectiveness of this Policy and the Program and recommend updates as needed.

B. This Policy was originally adopted by the Port Commission on April 27, 2021, as evidenced by Minute Number 2021-0427-55, and amended by its action on December 12, 2023, documented in Minute No. 2023-1212- .

Policy Owner: Executive
Version: First Amendment

H. CHANNEL INFRASTRUCTURE

Subject	1. Approve staff’s ranking and award a two-year professional services contract in an amount not to exceed \$185,000 for sediment sampling analysis plans, sediment sampling, and analytical reports for the material from maintenance dredging of Port Authority-owned facilities to the top-ranked proposer: staff ranking – first, Lloyd Engineering, Inc.; second, Terracon Consultants, Inc.; and third, Benchmark Ecological Services, Inc.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting: (a) approve staff’s ranking of the highest-ranked proposers offering the best value to the Port Authority, based on the selection criteria, in the following order – first, Lloyd Engineering, Inc.; second, Terracon Consultants, Inc.; and third, Benchmark Ecological Services, Inc; (b) award a professional services contract to Lloyd Engineering, Inc. for sediment sampling analysis plans, sediment sampling, and analytical reports for the material from maintenance dredging of Port Authority-owned facilities in an amount not to exceed \$185,000; (c) grant authority, if a contract cannot be negotiated with the first-ranked vendor, to formally, and in writing, end negotiations with that vendor and proceed to the next vendor in the order of ranking until a contract is reached or all proposals are rejected; and (d) further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:

Awards, Amendments & Change Order

Department:

Channel Operations

Staff Contact:

Garry McMahan/Leia Wilson

Background:

Sediment testing is required by private placement facilities and the U.S. Army Corps of Engineers prior to placement of dredged material into their respective placement areas. Because maintenance dredging of Port Authority berths occurs historically about every 1-3 years depending on the amount of shoaling, and this because dredging is a continuous activity and the testing must be performed within a limited time period prior to dredging events, sediment testing on a regular basis is required.

This project consists of delivery of sediment sampling analysis plans, services to conduct, analyze, and interpret sediment sampling, and delivery of analytical reports of the sediment sampling of dredged material from the maintenance dredging of Port Authority-owned facilities.

The Port Authority notified vendors regarding its request for proposals (RFP) for the contract, using the Port Authority's BuySpeed Eprocurement System, and advertised it on the Port Authority's website and in a local newspaper. Nine vendors downloaded the project materials from BuySpeed.

Staff Evaluation/Justification:

On October 25, 2023, three RFP responses were received and opened. The responses were reviewed and evaluated by staff in accordance with the selection criteria published in the RFP. Staff identified the following vendors, listed in order of ranking, as having proposals offering the best value to the Port Authority in providing the required services:

- Lloyd Engineering, Inc.
- Terracon Consultants, Inc.
- Benchmark Ecological Services, Inc.

Following staff Executive Committee review, staff recommends that the Port Commission award a contract to Lloyd Engineering, Inc., the provider offering the best value, for delivery of sediment sampling analysis plans, sediment sampling, and analytical reports for the dredged material from maintenance dredging of Port Authority-owned facilities, and act as otherwise described above.

H. CHANNEL INFRASTRUCTURE

Subject	2. Approve staff’s ranking of vendors and award a professional services contract in an amount not to exceed \$538,180 for a sediment sampling analysis plan of Port Authority-owned facilities to the top-ranked proposer: staff ranking – first, Lloyd Engineering, Inc.; second, ANAMAR Environmental Consulting, Inc.; and third, Benchmark Ecological Services, Inc.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting: (a) approve staff’s ranking of the highest-ranked proposers offering the best value to the Port Authority, based on the selection criteria, in the following order – first, Lloyd Engineering, Inc.; second, ANAMAR Environmental Consulting, Inc.; and third, Benchmark Ecological Services, Inc.; (b) award a professional services contract to Lloyd Engineering, Inc. for a sediment sampling analysis plan and analytical report of of Port Authority-owned facilities in an amount not to exceed \$538,180; (c) grant authority, if a contract cannot be negotiated with the first-ranked vendor, to formally, and in writing, end negotiations with that vendor and proceed to the second vendor in the order of ranking until a contract is reached or all proposals are rejected; and (d) further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:

Awards, Amendments & Change Orders

Department:

Channel Operations

Staff Contact:

Garry McMahan

Background:

The project consists of services for execution of a sediment sampling analysis plan, services to conduct, analyze, and interpret sampling, and delivery of an analytical report of Port Authority-owned facilities.

The Port Authority notified vendors regarding its request for proposals (RFP) for the contract using the Port Authority's BuySpeed Eprocurement System and the project was advertised on the Port Authority's website and in a local newspaper. Six vendors downloaded the project materials from BuySpeed.

Staff Evaluation/Justification:

On November 1, 2023, four RFP responses were received and opened. The responses were reviewed and evaluated by staff in accordance with the selection criteria published in the RFP. Staff identified the following vendors, listed in order of ranking, as having proposals offering the best value to the Port Authority in providing the required services:

- Lloyd Engineering, Inc.
- ANAMAR Environmental Consulting, Inc.
- Benchmark Ecological Services, Inc.

Following staff Executive Committee review, staff recommends that the Port Commission award a contract to Lloyd Engineering, Inc., the provider offering best value, and act as otherwise described above.

H. CHANNEL INFRASTRUCTURE

Subject **3. Approve the change of control of Vopak Moda Houston Holdco LLC under its lease for approximately 50 acres of submerged and filled submerged lands in the George M. Patrick and George Ross Surveys and Houston Ship Channel remitting from a transfer of Moda Infrastructure LLC's 50% equity interest.**

Meeting Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY

Access Public

Type Action

Recommended Action The Port Commission, at its December 12, 2023 meeting, approve the change of control of Vopak Moda Houston Holdco LLC under its lease for approximately 50 acres of submerged and filled submerged lands in the George M. Patrick and George Ross Surveys and Houston Ship Channel remitting from a transfer of Moda Infrastructure LLC's 50% equity interest, and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:
General

Department:
Channel Operations

Staff Contact:
Garry McMahan

Background:
The Port Authority and Vopak Moda Houston Holdco LLC (Tenant) are parties to a Lease Agreement dated as of September 1, 2019, Port Authority File No. 2019-0278.

At the commencement of the lease, 50% of the equity in the Tenant was held by Vopak Terminals North America, Inc. and 50% of the equity in the Tenant was held by Moda Midstream Operating, LLC. Previously, Moda Midstream Operating, LLC transferred its entire 50% equity interest in the Tenant to its wholly-owned subsidiary Moda Infrastructure, LLC, and provided a Notice of Transfer dated September 9, 2021.

Moda Infrastructure, LLC has requested the Port Authority to consent to the transfer of Moda Infrastructure LLC's entire 50% equity interest in the Tenant to CLH America Inc., and proposes to complete the transaction on or around January 1, 2024. This transaction would constitute a change of control and transfer under the lease, which requires the consent of the Landlord.

Staff Evaluation/Justification:
Staff has reviewed the terms of the change of control transaction, and recommends the Port Commission approve the change of control of the tenant under this lease.

H. CHANNEL INFRASTRUCTURE

Subject	4. Approve renewal of the following expiring Port Authority licenses for new thirty-year terms: Easton Energy Pipelines LLC, Enterprise Texas Pipeline LLC, and Linde Inc.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting, authorize the Port Authority to approve renewal of the following expiring Port Authority licenses for new thirty-year terms: Easton Energy Pipelines LLC, Enterprise Texas Pipeline LLC, and Linde Inc., and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:
Permits/Licenses/Pipeline Easements

Department:
Channel Operations

Staff Contact:
Garry McMahan

Background:
The pipeline and transmission line licensees listed below have applied to renew their licenses:

30 Year Term		
Company	File No.	License Fee*
Easton Energy Pipelines LLC	2004-0065	\$107,998
Enterprise Texas Pipeline LLC	2004-0464	\$37,474
Linde Inc.	2003-0400	\$12,788
Total		\$158,260

*License fee is calculated for the first 10 years of the agreement for the 30-year term licenses.

Staff Evaluation/Justification:
The applications were reviewed and approved by the Port Authority's Channel Operations department and the Port Terminal Railroad Association when applicable. The licenses are to be renewed subject to the Port Authority's usual terms and conditions.

Staff recommends approval.

H. CHANNEL INFRASTRUCTURE

Subject	5. Approve a private adjacency barge fleeting lease agreement with, and issue a marine construction permit to, Kirby Inland Marine, LP for approximately 5.632 acres of submerged land in the San Jacinto River for a minimum amount of \$262,518 for a ten-year term.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting, authorize the Port Authority to approve a private adjacency barge fleeting lease agreement with, and issue a marine construction permit to, Kirby Inland Marine, LP for approximately 5.632 acres of submerged land in the San Jacinto River for a minimum amount of \$262,518 for a ten-year term, and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:

Permits/Licenses/Pipeline Easements

Department:

Channel Operations

Staff Contact:

Garry McMahan

Background:

Kirby Inland Marine, LP (Kirby), Port Authority File No. 2023-0244 (lease) and Port Authority File No. 2023-0245 (marine construction permit), has applied for a private adjacency barge fleeting lease agreement and a marine construction permit to barge fleet on 5.12 acres of submerged land and use 0.512 acres of fill in the San Jacinto River, adjacent to land in the Nathaniel Lynch Survey, A-44, Harris County, Texas.

Staff is informed that Kirby operates the nation's largest fleet of inland tank barges and towing vessels to transport liquid bulk cargo, petrochemicals, refined products, black oil, and agricultural chemicals from producers to intermediaries to end users, with a service area spanning the Intercoastal Waterway from Brownsville, Texas to St. Marks, Florida, and the Mississippi River and its tributaries.

Staff Evaluation/Justification:

The application was reviewed and approved by the Port Authority's Channel Operations department. The lease and permit are subject to the Port Authority's usual terms and conditions, for an initial lease fee of \$2,016 per month, for a minimum amount of \$262,518 for a ten-year term. The \$675 application fee has been paid.

Staff recommends approval.

H. CHANNEL INFRASTRUCTURE

Subject	6. Issue a pipeline license to South Texas NGL Pipeline LLC for one 6-inch propylene pipeline crossing the Port Terminal Railroad Association Southside Mainline railroad right-of-way near Rohm and Haas Road and Independence Parkway.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting, authorize the Port Authority to issue a pipeline license to South Texas NGL Pipeline LLC for one 6-inch propylene pipeline crossing the Port Terminal Railroad Association Southside Mainline railroad right-of-way near Rohm and Haas Road and Independence Parkway, and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:

Permits/Licenses/Pipeline Easements

Department:

Channel Operations

Staff Contact:

Garry McMahan

Background:

South Texas NGL Pipeline LLC, Port Authority File No. 2023-0358, has applied for a pipeline license for one 6-inch propylene pipeline crossing the Port Terminal Railroad Association Southside Mainline railroad right-of-way near Rohm and Haas Road in the G.M. Patrick Survey, A-624 and near Independence Parkway in the George Ross Survey, A-626.

Staff Evaluation/Justification:

The application was reviewed and approved by the Port Authority's Channel Operations department and Port Terminal Railroad Association. The license is subject to the Port Authority's usual terms and conditions, for a 30-year term, and at a fee of \$9,544 for the first ten years of the 30-year term. The \$1,000 application fee and the \$10,000 as-built deposit have been paid.

Staff recommends approval.

H. CHANNEL INFRASTRUCTURE

Subject	7. Amend a pipeline license issued to HSC Pipeline Partnership, LLC for the addition of a surface site on the Port Authority's Sims Bayou property.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting, authorize the Port Authority to amend a pipeline license issued to HSC Pipeline Partnership, LLC for the addition of a surface site on the Port Authority's Sims Bayou property, and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:

Permits/Licenses/Pipeline Easements

Department:

Channel Operations

Staff Contact:

Garry McMahan

Background:

HSC Pipeline Partnership, LLC, Port Authority File No. 2022-0354, has applied to amend a 6-inch pipeline license for the addition of a 5 foot x 20-foot surface site on the Port Authority's Sims Bayou property, in the M.A. Callahan and Allen Vince Survey, A-9, Harris County, Texas.

Staff Evaluation/Justification:

The application was reviewed and approved by the Port Authority's Channel Operations and Real Estate departments, and Port Terminal Railroad Association. The license is subject to the Port Authority's usual terms and conditions. A fee of \$7,214, the \$1,000 application fee, and the \$10,000 as-built deposit have been paid.

Staff recommends approval.

H. CHANNEL INFRASTRUCTURE

Subject	8. Terminate all existing Beltway 8 property easements and licenses for Kinder Morgan Texas Pipeline LLC and its predecessors, and issue a pipeline easement for a 16-inch pipeline and relocation agreement to Kinder Morgan Texas Pipeline LLC across the Beltway 8 property.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting, terminate all existing Beltway 8 property easements and licenses for Kinder Morgan Texas Pipeline LLC and its predecessors, and issue a pipeline easement for a 16-inch pipeline and relocation agreement to Kinder Morgan Texas Pipeline LLC across the Beltway 8 property, and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:

Permits/Licenses/Pipeline Easements

Department:

Channel Operations

Staff Contact:

Garry McMahan

Background:

As part of the Houston Ship Channel Expansion Improvement Project (Project 11), a new one-time use dredged material placement area (DMPA) is planned to be built on the Port Authority's Beltway 8 property. Several pipelines covered under several easements belonging to Kinder Morgan Texas Pipeline, LLC (Kinder Morgan) must be relocated around this new DMPA. The existing easements, which would be terminated and replaced by this new easement, require the Port Authority to provide a new location for the pipelines and the relocations to be at the pipeline owner's expense.

This new easement across the Port Authority's Beltway 8 property for a 16-inch pipeline is to be issued to Kinder Morgan under Port Authority File No. 2023-0321. A similar new easement for an 8-inch pipeline was approved in the September 2023 Port Commission meeting replacing different Kinder Morgan pipelines on a different portion of Beltway 8.

Staff Evaluation/Justification:

The relocation has been coordinated with the Port Authority's Channel Operations department. The easement is to be issued with substantially the same terms as the original easements.

Staff recommends approval.

I. COMMERCIAL

Subject	1. Award a contract for broker services to Colliers International Houston, Inc. for marketing and leasing of the Greens Bayou Terminal property for a fee of 1% of the base rent over the first initial ten years, paid in three installments based on the lease structure.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting, award a contract for broker services to Colliers International Houston, Inc. for marketing and leasing of the Greens Bayou Terminal property for a fee of 1% of the base rent over the first initial ten years, paid in three installments based on the lease structure, and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:

Leases

Department:

Real Estate

Staff Contact:

Jim Vo

Background:

The Greens Bayou Terminal property consists of approximately 339 gross acres which including wetlands, waterfront land, and submerged land. This property was previously under lease with Contanda Terminals LLC which commenced in October 2017, terminated March 2020, and has been vacant since that time.

By Minute No. 2023-0725-17, the Port Commission approved a broker vendor pool from which to select firms to advise and assist with the Port Authority's real estate brokerage and consulting needs.

Staff now proposes to obtain Broker services to market the Greens Bayou Terminal property, procure potential tenants, negotiate, and finalize a lease agreement. A short list of brokers selected from the broker vendor pool went through the bid proposals and interview process prior to final selection. Colliers International Houston, Inc. is part of this vendor pool.

Staff Evaluation/Justification:

Staff recommends the Port Commission award a contract for broker services to Colliers International Houston, Inc. as described above.

I. COMMERCIAL

Subject	2. Approve a lease for a five-year term with a five-year mutual extension option with Enstructure Richardson I LLC for approximately 12.55 acres out of Blocks 33 and 33A at Industrial Park East, at an annual base rent of approximately \$512,395, subject to annual base rent escalation of the greater of 3% or the increase in the Consumer Price Index.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting, approve a lease for a five-year term with a five-year mutual extension option with Enstructure Richardson I LLC for approximately 12.55 acres out of Blocks 33 and 33A at Industrial Park East, at an annual base rent of approximately \$512,395, subject to annual base rent escalation of the greater of 3% or the increase in the Consumer Price Index, and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:
Leases

Department:
Real Estate

Staff Contact:
John A. Moseley/Ben Licata

Background:
Enstructure Richardson I LLC (Enstructure) has requested that the Port Authority lease it a total of approximately 12.55 acres out of its Blocks 33 and 33A at Industrial Park East for a five-year term with a five-year mutual extension option. Enstructure (and its predecessor entity, R. Warehousing & Port Services, Inc.) has previously leased a total of approximately 11.83 acres of the property (consisting of a 7.83-acre tract and a 4.00-acre tract) since 2021 on a month-to-month basis, for storage and handling of steel products and general cargo.

In 2023, the Port Authority acquired fee simple interest in an undeveloped public right-of-way of approximately 0.73 acres from the City of Houston through abandonment and sale. Such right-of-way is located between the Port Authority's Blocks 33 and 33A. Now that the Port Authority owns this 0.73-acre tract, Enstructure has requested to lease such tract together with Blocks 33 and 33A for a total of approximately 12.55 acres.

Staff Evaluation/Justification:

Staff recommends the Port Commission approve the proposed lease with Enstructure under the terms described above.

J. FINANCE

Subject	1. Approve and adopt the proposed Internal Audit 2024 Annual Audit Plan.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting, approve and adopt the proposed 2024 Annual Audit Plan, and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:
General

Department:
Internal Audit

Staff Contact:
Shannon Williams

Background:
Section 5007.226(e) of the Texas Special District Local Laws Code requires that the Port Commission "create, approve, and make available on the Port Authority's website a risk-based annual audit plan."

During the fourth quarter of 2023, the Port Authority's Internal Audit group updated the Annual Risk Assessment (ARA) in accordance with applicable professional auditing standards. Based on the ARA results and input from the Audit Committee and Port Authority staff, Internal Audit drafted a proposed Annual Audit Plan to serve as the primary guide to carry out its audit responsibilities in an efficient manner for the 2024 fiscal year.

Staff Evaluation/Justification:

The proposed Annual Audit Plan was presented to the Audit Committee at its meeting on October 24, 2023. The plan focuses on the following key areas:

- Infrastructure (e.g., project and construction management);
- Administration and governance (e.g., information security);
- Information Technology (e.g., cybersecurity governance and inventory management);
- Finance and Accounting (e.g., Port of Houston Authority Other Post-Employment Benefits Plan (OPEB Plan), contract compliance, and investments);
- Procurement (e.g., policies and procedures, and interlocal co-op agreements); and
- Entity compliance (e.g., federal regulations, statutes, tariffs, and internal policies).

The plan is a flexible commitment and may be revised during the year with guidance and input from the Audit Committee, input from Port Authority staff based on audit results and findings, and consideration of internal control procedures and assessment of high-risk areas.

Following review of and discussion regarding the draft plan with the Audit Committee, staff recommends the Port Commission approve and adopt the proposed Internal Audit 2024 Annual Audit Plan.

J. FINANCE

Subject **2. Authorize payment to the Harris County Appraisal District for appraisal services to be provided to the Port Authority for fiscal year 2024 in an amount not to exceed \$405,000, and payment to the Harris County Tax Assessor-Collector for collection services for the 2023 tax year in an amount not to exceed \$1,100,000.**

Meeting Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY

Access Public

Type Action

Recommended Action The Port Commission, at its December 12, 2023 meeting, (i) authorize payment to the Harris County Appraisal District for appraisal services to be provided to the Port Authority for fiscal year 2024 in an amount not to exceed \$405,000, (ii) authorize payment to the Harris County Tax Assessor-Collector for tax collection services for the 2023 tax year in an amount not to exceed \$1,100,000, and (iii) further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:
General

Department:
Controller

Staff Contact:
Curtis Duncan

Background:

The Harris County Appraisal District provides appraisal services to the Port Authority in connection with its ad valorem taxes. As provided in Section 6.06(d), Texas Property Tax Code, "each taxing unit [e.g., the Port Authority] participating in the [appraisal] district is allocated a portion of the amount of the budget equal to the proportion that the total dollar amount of property taxes imposed in the [appraisal] district by the unit for the tax year in which the budget proposal is prepared bears to the sum of the total dollar amount of property taxes imposed in the [appraisal] district by each participating unit for that year."

In addition, pursuant to statute, the Harris County Tax Assessor-Collector is charged with the assessment and collection of taxes levied on behalf of the Port Authority within the Port Authority's jurisdiction, and receives compensation for such services as agreed to by the Port Commission and Harris County Commissioners Court. In July 2007, the Harris County Commissioners Court adopted a fee schedule, which remains in use at the present time, such that each taxing unit is charged property tax collection fees at the rate of \$1.10 per parcel plus \$0.0275 per hundred dollars of taxable valuation.

Staff Evaluation/Justification:

The Harris County Appraisal District has indicated that the estimated cost allocation to the Port Authority for appraisal services to be provided for fiscal year 2024 is under \$405,000. Staff recommends that the Port Commission authorize payment of such expense, which is usually invoiced and paid in four quarterly installments, the first of which is due by December 31, 2023, in the not to exceed amount referenced above.

The Harris County Tax Assessor-Collector has notified the Port Authority that the estimated preliminary property tax collection fees for the 2023 tax year is under \$1,100,000. This fee is normally withheld at the rate of 2.5% from all Port Authority tax collections starting July 2023 until the full amount is collected. Staff recommends Port Commission authorization of such collection fees, in the not to exceed amount referenced above.

K. INFRASTRUCTURE

Subject	1. Award a contract to C. F. McDonald Electric, Inc. for the purchase and delivery of electrical substation equipment for Container Yard 8 at Bayport Container Terminal in an amount not to exceed \$2,996,469.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting, award a contract to C. F. McDonald Electric, Inc. for the purchase and delivery of electrical substation equipment for Container Yard 8 at Bayport Container Terminal in an amount not to exceed \$2,996,469, and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:

Awards, Amendments & Change Orders

Department:

Project and Construction Management

Staff Contact:

Roger H. Hoh, P.E.

Background:

This contract would provide for purchase and delivery of electrical substation equipment to the Bayport Terminal by a licensed distributor of the equipment.

The Port Authority notified vendors regarding its request for proposals (RFP) using the Port Authority's BuySpeed Eprocurement System and the project was advertised on the Port Authority's website and in a local newspaper. Twenty vendors downloaded the project materials from BuySpeed.

Staff Evaluation/Justification:

On November 1, 2023, one RFP response was received and opened. The response was reviewed and evaluated by staff in accordance with the selection criteria published in the RFP.

Following staff Executive Committee review, staff recommends that the Port Commission award a contract to C. F. McDonald Electric, Inc. for the purchase and delivery of electrical substation equipment, and act as otherwise described above.

K. INFRASTRUCTURE

Subject	2. Award a professional services contract to Burrer Engineering for communication and power layout expansion design at the west end of Barbours Cut Terminal in an amount not to exceed \$201,847.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting, authorize award of a professional services contract with Burrer Engineering for communication and power layout expansion design at the west end of Barbours Cut Terminal in an amount not to exceed \$201,847, and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:

Awards, Amendments & Change Orders

Department:

Project and Construction Management

Staff Contact:

Roger H. Hoh, P.E.

Background:

This project consists of the design of the expansion of the power and communication layout at the west end of Barbours Cut Terminal, to bring fiber and power to select poles, as needed to allow wireless communications in the area.

Staff Evaluation/Justification:

Staff has determined that Burrer Engineering is the most highly qualified provider for these professional services, and requests that the Port Commission approve this contract for the communication and power layout expansion at the west end of Barbours Cut Terminal.

K. INFRASTRUCTURE

Subject	3. Enter into a Pipeline Crossing Agreement with Union Pacific Railroad Company for two proposed Port Authority waterline crossings at south Turning Basin Terminal and authorize a payment to Union Pacific in an amount not to exceed \$16,440.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting, enter into a Pipeline Crossing Agreement with Union Pacific Railroad Company (Union Pacific) for two proposed Port Authority waterline crossings at south Turning Basin Terminal and authorize a payment to Union Pacific in an amount not to exceed \$16,440, and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:

General

Department:

Project and Construction Management

Staff Contact:

Roger H. Hoh, P.E.

Background:

The Port Authority intends to rehabilitate the water distribution systems at South Turning Basin Terminal at Wharves 1-4 and Wharves 41-48. Part of the project consists of boring under Union Pacific right-of-way at two separate locations for new waterline installations. The new waterlines would connect to existing City of Houston water meters.

Staff Evaluation/Justification:

Port Authority staff has concluded that the pipeline crossing agreement and funding are required to proceed with the waterline rehabilitation project.

Accordingly, staff recommends that the Port Commission authorize the agreement with Union Pacific and funding.

L. OPERATIONS

Subject	1. Award a contract to Aries Building Systems, LLC for the purchase of a modular building for Central Maintenance at Turning Basin Terminal, using the Local Government Purchasing Cooperative's BuyBoard Program, in an amount not to exceed \$170,000.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting, issue a purchase order to Aries Building Systems, LLC for the purchase of a modular building for Central Maintenance at Turning Basin Terminal, using the Local Government Purchasing Cooperative's BuyBoard Program, in an amount not to exceed \$170,000, determine that this procurement method provides the best value to the Port Authority, and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:

Awards, Amendments & Change Orders

Department:

Maintenance

Staff Contact:

Paulo Soares

Background:

A twelve-person crew of Port Authority Maintenance employees is responsible for maintaining and repairing marine assets including wharves, fender systems, cleats, and netting, and completing other Facility Inspection and Condition Assessment Program (FICAP) projects. This team currently occupies a 50+ year old building behind the Central Maintenance main office building.

The Port Authority is seeking to obtain a modular building that would adequately accommodate this crew, and provide space for training, uniform storage, offices for foreman and two captains, and a breakroom.

The Local Government Purchasing Cooperative is an administrative agency of cooperating local governments and its BuyBoard purchasing program may be used for this purchase.

Staff Evaluation/Justification:

The Director of Procurement Services has determined that procuring this item through the BuyBoard Program is the method that satisfies both competitive purchase requirements and provides best value to the Port Authority.

The Central Maintenance department has determined that the best availability, price, and contract term for the modular building is provided by Aries Building Systems, LLC under the pricing schedule obtained from that vendor's contract with the Local Government Purchasing Cooperative's BuyBoard Program.

Staff recommends that the Port Commission approve this best value determination and award a contract to Aries Building Systems, LLC for the purchase of a modular building for Central Maintenance at Turning Basin Terminal.

L. OPERATIONS

Subject	2. Issue a purchase order to Rush Truck Centers of Texas, LP dba Rush Truck Center, Houston for the purchase of one 2023 Peterbilt truck with a 4,500-gallon fuel tank for Bayport Container Terminal, using the Local Government Purchasing Cooperative's BuyBoard Program, in an amount not to exceed \$330,000.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting, issue a purchase order to Rush Truck Centers of Texas, LP dba Rush Truck Center, Houston for the purchase of one 2023 Peterbilt truck with a 4500-gallon fuel tank for Bayport Container Terminal, using the Local Government Purchasing Cooperative's BuyBoard Program, in an amount not to exceed \$330,000, determine that this procurement method provides the best value to the Port Authority, and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:

Awards, Amendments & Change Orders

Department:

Maintenance

Staff Contact:

Paulo Soares

Background:

The Port Authority currently owns one 2002 2,000-gallon truck and one 2006 4,500-gallon diesel fuel truck operating at Bayport Container Terminal. These units are used daily for dispensing diesel fuel to over 90 container-handling machines across an expanding yard. Each fuel truck has only one dispenser and neither truck is fit for efficient night-time fueling of the various container handling equipment requiring high and low flow rates, and for fueling from both sides of the vehicle. A new mobile truck will allow fueling from both sides, and various filling rates, and outfitting with adequate lighting and markings for safer night operation.

The Local Government Purchasing Cooperative is an administrative agency of cooperating local governments and its BuyBoard Purchasing Program may be used for this purchase.

Staff Evaluation/Justification:

The Director of Procurement Services has determined that procuring this item through the BuyBoard Cooperative Purchasing Program is the method that both satisfies competitive purchase requirements and provides the best value to the Port Authority.

The BuyBoard website lists many pre-approved providers of equipment. Bayport Maintenance staff looked at such providers and determined that the 2023 Peterbilt truck with a 4,500-gallon fuel tank is the model that best meets the Port Authority's requirements, and that Rush Truck Centers of Texas, LP dba Rush Truck Center, Houston is the vendor with the best price for that model. Its pricing for the selected model was reviewed and approved by BuyBoard.

Staff recommends that the Port Commission approve this best value determination and issuance of a purchase order to Rush Truck Centers of Texas, LP dba Rush Truck Center, Houston for the purchase of one 2023 Peterbilt truck with a 4,500-gallon fuel tank.

L. OPERATIONS

Subject	3. Authorize payment to Kalmar, the sole source provider, for annual maintenance services for the marine terminal position detection software system for Barbours Cut Terminal and Bayport Container Terminal in an amount not to exceed \$215,377.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting, authorize payment to Kalmar for annual maintenance & support services for the marine terminal position detection software system for Barbours Cut Terminal and Bayport Container Terminal pursuant to the current contract between Kalmar and the Port Authority, for a one-year term beginning January 1, 2024 in an amount not to exceed \$215,377, and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:

Awards, Amendments & Change Orders

Department:

Operations

Staff Contact:

Michael Shaffner

Background:

By Minute No. 2019-0924-45, a contract was awarded to Kalmar to provide for the implementation and maintenance of a marine terminal position detection software system for use at both Port Authority container terminals. The position detection software system improves operator efficiency by automating container location position updates, eliminating the need to stop operating the crane and manually input container position updates.

The contract describes the year-to-year maintenance services that are required to be performed and sets forth the maintenance fee for each one-year maintenance term. The maintenance fee for each one-year term is based upon the total amount of cranes using the Position Detection System. The maintenance fee for January 1, 2024 through December 31, 2024 would be in an amount not to exceed \$215,377.

Staff Evaluation/Justification:

Section 60.412 of the Water Code provides that a purchase for an item that can be obtained only from one source is exempt from certain procurement requirements of the Water Code. Port Authority staff has received a written statement from the manufacturer confirming that Kalmar is the sole source for annual maintenance services for the marine terminal position detection software system for Barbours Cut Terminal and Bayport Container Terminal.

Staff recommends the Port Commission authorize payment to Kalmar for annual maintenance services for the marine terminal position detection software system for Barbours Cut Terminal and Bayport Container Terminal.

L. OPERATIONS

Subject	4. Award a three-year maintenance and support contract to IdSoftware Identification Management Systems, LLC, for the Transportation Worker Identification Credential reader software application installed at Bayport Container Terminal and Barbours Cut Terminal truck gates in an amount not to exceed \$172,074.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting, award a three-year maintenance and support contract to IdSoftware Identification Management Systems, LLC, for the Transportation Worker Identification Credential reader software application installed at Bayport Container Terminal and Barbours Cut Terminal truck gates in an amount not to exceed \$172,074, and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:

Awards, Amendments & Change Orders

Department:

Operations

Staff Contact:

Michael Shaffner

Background:

By Minute No. 2018-1030-39, the Port Commission awarded a contract to IdSoftware Identification Management Systems, LLC for a Transportation Worker Identification Credential (TWIC) reader software application to be used at Bayport Container Terminal and Barbours Cut Terminal truck gates. The original contract provided equipment for a total of five truck lanes at Bayport Container Terminal and two at Barbours Cut Terminal.

The Barbours Cut Terminal gate has recently undergone an expansion and additional TWIC reader lane equipment is needed to provide for a total of five lanes utilizing the TWIC reader software at the truck gates.

This application enables the automation of the TWIC verification process and is considered a security enhancement; IdSoftware uses facial matching as the primary biometric, fingerprint as secondary, and remote vetting via live camera feed as a final method.

The renewed maintenance and support agreement would be for a three-year term beginning January 1, 2024, paid annually, and would cover all components and software deployed.

Staff Evaluation/Justification:

The use of the TWIC reader software application provides an automated process to validate a TWIC card and/or the ability to manually validate from a remote location, thereby eliminating the need to have a physical guard in each TWIC truck lane. In addition, the software provides additional security checks resulting in an enhanced TWIC screening process.

Staff recommends the Port Commission award a three-year contract to IdSoftware for the TWIC reader application installation at Bayport Container Terminal and Barbours Cut Terminal.

L. OPERATIONS

Subject 5. Issue Stevedore Licenses for one-year terms commencing January 1, 2024 to Agri American Stevedores, LLC; APS Stevedoring, LLC; BBM Terminals Corp.; SSA Gulf, Inc.; Cooper/Ports America LLC.; CT Stevedoring, Inc.; Gulf Stream Marine, Inc.; Jacintoport International, LLC; Kinder Morgan, Inc.; Empire Stevedoring (Houston), Inc.; Enstructure Richardson II, LLC (previously known as Richardson Stevedoring, and Logistics Services, Inc.); Schroder Marine Service; Suderman Contracting Stevedoring, Inc.; and Terminal Link Texas, upon each applicant's satisfactory completion of all requirements and obligations for license issuance.

Meeting Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY

Access Public

Type Action

Recommended Action The Port Commission at its December 12, 2023 meeting, grant authority to issue Stevedore Licenses for one-year terms commencing January 1, 2024 to Agri American Stevedores, LLC; APS Stevedoring, LLC; BBM Terminals Corp.; SSA Gulf, Inc.; Cooper/Ports America LLC.; CT Stevedoring, Inc.; Gulf Stream Marine, Inc.; Jacintoport International, LLC; Kinder Morgan, Inc.; Empire Stevedoring (Houston), Inc.; Enstructure Richardson II, LLC (previously known as Richardson Stevedoring, and Logistics Services, Inc.); Schroder Marine Service; Suderman Contracting Stevedoring, Inc.; and Terminal Link Texas, upon each applicant's satisfactory completion of all requirements and obligations for license issuance, and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:

General

Department:

Operations

Staff Contact:

Jeff Davis

Background:

By Minute No. 2022-1206-47, the Port Commission awarded certain stevedore licenses for one-year terms expiring December 31, 2023.

Staff is currently receiving stevedore license applications from companies interested in being licensed to work at Port Authority facilities during 2024 as set forth below and is in the process of reviewing those applications.

Stevedores	Location
Agri American Stevedores	HPGE#2
APS Stevedoring, LLC	North Side Turning Basin
BBM Terminals	South Side City Dock 3
SSA Gulf, Inc.	Barbours Cut Terminal, Bayport Container Terminal
Cooper/Ports America LLC.	North Side Turning Basin, Barbours Cut Terminal, Bayport Container Terminal
CT Stevedoring, Inc.	North Side Turning Basin, Barbours Cut Terminal, Bayport Container Terminal
Empire Stevedoring (Houston), Inc.	Empire Stevedoring (Houston), Inc. facility, Care, Jacintoport
Gulf Stream Marine	Care, Jacintoport, Empire Stevedoring (Houston), Inc. facility
Jacintoport International, LLC	Jacintoport, Care, Empire Stevedoring (Houston), Inc. facility
Kinder Morgan	Bulk Plant
Enstructure Richardson II, LLC	North Side Turning Basin, Woodhouse, Barbours Cut Terminal, Bayport Container Terminal
Schroder Marine Services	North Side Turning Basin
Suderman Contracting Stevedoring, Inc.	North Side Turning Basin
Terminal Link Texas	Barbours Cut Terminal and Bayport Container Terminal

Staff Evaluation/Justification:

Staff recommends that the Port Commission authorize issuance of stevedore licenses to the applicants as set forth above for the identified Port Authority facilities; provided however, that issuance be conditioned upon the applicant's satisfactory completion of outstanding license requirements and obligations, if any, and satisfaction of current license requirements.

L. OPERATIONS

Subject	6. Authorize a compliance agreement with U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Plant Protection and Quarantine program relating to the certification of Port Authority facilities for the handling of refrigerated containers completing cold treatment.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting, authorize a compliance agreement with U.S. Department of Agriculture, Animal and Plant Health Inspection Service, Plant Protection and Quarantine program relating to the certification of Port Authority facilities for the handling of refrigerated containers completing cold treatment, and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:
General

Department:
Operations

Staff Contact:
Candice Armenoff

Background:
Certain fruits, vegetables, and other articles undergo cold treatment in refrigerated containers during the import process into the United States, as required by the Department of Agriculture, to address the risk of pest infestation. All facilities used for the storage of imported refrigerated fruits or vegetables completing cold treatment must be certified by U.S. Department of Agriculture, Animal and Plant Health Inspection Service (APHIS), Plant Protection and Quarantine program. Recertification of the facility or carrier is required every three years, or as often as APHIS directs.

Staff has sought this certification to allow cargo volumes completing cold treatment to be moved through Port Authority facilities, and therefore more directly to the surrounding region.

Certification requires the execution of a compliance agreement between the facility operator and APHIS. The compliance agreement sets forth the standard operating procedures for cold treatment at Port Authority container terminals. The Port Authority would be obligated to adhere to these standard operating procedures as well as requirements of federal laws and regulations relating to cold treatment facilities.

Staff Evaluation/Justification:
Staff recommends the Port Commission approve the above agreement.

L. OPERATIONS

Subject	7. Authorize updates to Tariffs 8, 14, and 15 relating to the handling of refrigerated containers completing cold treatment.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting, authorize updates to Tariffs 8, 14, and 15 relating to the handling of refrigerated containers completing cold treatment, and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:

General

Department:

Operations

Staff Contact:

Candice Armenoff

Background:

The Port Authority is seeking certification from the Department of Agriculture to become a facility that is certified to handle imported refrigerated fruits or vegetables completing cold treatment. Certification requires the execution of a compliance agreement between the facility operator (Port Authority) and U.S. Department of Agriculture, Animal and Plant Health Inspection Service (APHIS), Plant Protection and Quarantine program that sets forth the standard operating procedures for cold treatment at Port Authority container terminals.

In connection with this compliance agreement, it is appropriate and necessary to enact tariff provisions to require compliance with cold treatment procedures by Port Authority facility users. These procedures include (but are not limited to) the requirement to share data regarding refrigerated container cold treatment status with the Department of Agriculture as required by law and federal regulation. These tariff provisions are intended to promote compliance with the federal regulations and rules relating to cold treatment by facility users.

Staff Evaluation/Justification:

Staff recommends the Port Commission approve the described tariff provisions.

L. OPERATIONS

Subject	8. Authorize updates to Tariff 8 relating to parking rules and violations.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting, authorize updates to Tariff 8 relating to parking rules and violations, and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:
General

Department:
Operations

Staff Contact:
Jeff Davis

Background:
Port Authority police have observed parking violations and disruptive parking practices at Port Authority facilities, including but not limited to the abandoning of personal vehicles at Port Authority facilities. Although Tariff 8, Subrule 069 currently includes rules related to driving, staff recommends refining and clarifying these rules to address parking that is disruptive to port operations, unsafe, not in designated parking areas, or not otherwise permitted.

Staff Evaluation/Justification:
Staff recommends the Port Commission approve the described tariff provisions related to parking rules and violations.

L. OPERATIONS

Subject	9. Authorize updates to Tariff 14 and 15 regarding billing practices, gate operations start time, and extended gate hours.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting, authorize updates to Tariffs 14 and 15 regarding billing practices, gate operations start time, and extended gate hours, and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:

General

Department:

Operations

Staff Contact:

Ryan Mariacher

Background:

Staff recommends updates in Tariffs 14 and 15, regarding billing users' applicable throughput charges by the vessel sail date and identifying tank loads.

Additionally, staff recommends updated provisions regarding gate operations start time and deadlines for requesting extended gate hours.

Finally, staff also recommends increasing the volume requirements associated with extended gate hours, in consideration of the resources expended.

Staff Evaluation/Justification:

Staff recommends the Port Commission approve the described tariff provisions.

M. PEOPLE

Subject	1. Authorize funding for calendar year 2024 for payment of claims from the Port Authority's self-funded group medical benefits program for active employees and retirees who are not Medicare-eligible, and eligible dependents, in an amount not to exceed \$17,500,000.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting, authorize funding for calendar year 2024 for payment of claims from the Port Authority's self-funded group medical benefits program for active employees and retirees who are not Medicare-eligible, and eligible dependents, in an amount not to exceed \$17,500,000, and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:

Awards, Amendments & Change Orders

Department:

Human Resources

Staff Contact:

Roger Walter

Background:

By Minute No. 2022-1206-50, the Port Commission awarded a contract to Gallagher Benefits Services, Inc. to provide employee benefits consulting services, including assisting in: development of requests for proposals for group insurance coverages; evaluation of proposals; negotiation of renewal rates; and recommendations on provider selections.

In September 2018, after having reviewed proposals and analyzed the costs of a self-funded program compared to a fully insured medical program, the Port Authority proceeded with the implementation of a self-funded group medical benefits program administered with Aetna as the Third-Party Administrator (TPA).

The Pension and Benefits Committee was given a summary on the status of the 2022 and 2023 medical program at its September 25, 2023 meeting. Gallagher and staff recommended, and the Pension and Benefits Committee concurred, that the Port Authority continue with the self-funded program for calendar year 2024.

Staff Evaluation/Justification:

The Port Authority's open enrollment period for calendar year 2024 occurred from October 30 to November 10, 2023. Based upon the enrollment information and the review of historical claims data, staff and Gallagher recommend that \$17,500,000 be reserved for the self-insurance account to pay for all covered medical and pharmaceutical claims expected for calendar year 2024 from the Port Authority's self-funded group medical insurance program for active employees, retirees who are not Medicare-eligible, and their dependents.

The payment of covered claims from the dedicated funds would be administered by Aetna pursuant to its third-party administration services agreement with the Port Authority.

Staff recommends the Port Commission approve the above funding request.

M. PEOPLE

Subject	2. Approve a change order with BKJ Global Management Consulting, LLC for additional project management, analysis, and testing services for the Next Generation (NXGEN) Collaboration project for an additional amount not to exceed \$150,000.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting, approve a change order with BKJ Global Management Consulting, LLC for additional project management, analysis, and testing services for the Next Generation (NXGEN) Collaboration project for an additional amount not to exceed \$150,000, and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:

Awards, Amendments & Change Orders

Department:

Enterprise Collaboration

Staff Contact:

Courtney Sullivan-Ward

Background:

By Minute No. 2022-1027-58, the Port Commission approved the award of a contract with BKJ Global Management Consulting, LLC for project management services for the Next Generation (NXGEN) Collaboration initiative.

The Port Authority's NXGEN Collaboration initiative aims to migrate the intranet and Records Center from an on-premise solution into the cloud-based Software as a Service (SaaS) platforms of SharePoint Online and Microsoft Teams, enhancing the Port Authority's ability to communicate and collaborate.

The Port Authority is seeking approval to issue a change order to purchase additional project management services in an amount not to exceed \$150,000, for a total contract amount not to exceed \$320,000.

Staff Evaluation/Justification:

Additional project management services are critical to the success of the NXGEN Collaboration effort. Staff has determined that issuing a change order to BKJ Global Management Consulting, LLC is the best value to the Port Authority and therefore recommends the Port Commission approve this purchase.

N. SECURITY AND EMERGENCY OPERATIONS

Subject	1. Issue a purchase order to Motorola Solutions for the purchase of land mobile radio equipment including radios, batteries, chargers, related hardware, and accessories for the Port Operations and Port Security and Emergency Operations Divisions, using the Houston-Galveston Area Council's cooperative purchase program, in an amount not to exceed \$500,000.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting, approve a purchase order to Motorola Solutions for purchase of land mobile radio equipment including radios, batteries, chargers, related hardware, and accessories for the Port Operations and Port Security and Emergency Operations Divisions, using the Houston-Galveston Area Council's cooperative purchase program, in an amount not to exceed \$500,000, determine that this procurement method provides the best value to the Port Authority, and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:

Awards, Amendments & Change Orders

Department:

Emergency Management

Staff Contact:

Colin Rizzo

Background:

Motorola Land Mobile Radio (LMR) equipment, including handheld, mobile, and base stations, are used daily by Port Authority maintenance and operations personnel, crane operators, and clerks to accomplish their tasks in a safe and efficient manner. The Port Security and Emergency Operations Division, including contract security, police, and fire departments, also uses Motorola LMR equipment to maintain security at all terminals and respond to incidents and other emergencies. Authentic Motorola parts and accessories are required to service the LMR equipment which comprise the vast majority of the approximately 1,800 radios in use.

Staff Evaluation/Justification:

The Director of Procurement Services has determined that procuring land mobile radio equipment through the Houston-Galveston Area Council's cooperative purchase program is the method that both satisfies competitive purchase requirements and provides the best value to the Port Authority and staff has determined that the best price for this equipment can be offered in this fashion.

Accordingly, staff recommends that the Port Commission approve this best value determination and contract.

N. SECURITY AND EMERGENCY OPERATIONS

Subject	2. Enter into a three-year governmental services contract with the City of La Porte Emergency Medical Service for emergency medical services in an amount not to exceed \$247,239.75.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting, authorize a three-year governmental services contract with the City of La Porte Emergency Medical Service for emergency medical services in an amount not to exceed \$247,239.75, and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:

Awards, Amendments & Change Orders

Department:

Fire

Staff Contact:

William Buck

Background:

The Port Authority's Fire Department provides first responder medical services at Barbours Cut Terminal and Bayport Container Terminal. The City of La Porte Emergency Medical Service (EMS) currently provides follow-on EMS services as required, including ambulance response, and transport of injured persons to appropriate medical facilities.

The current three-year contract for these services is set to expire on January 31, 2024, and it is in the best interest of the Port Authority to maintain on-call EMS services for the safety of its workforce.

Staff Evaluation/Justification:

Due to the continued potential need for emergency medical services at Barbours Cut Terminal and/or Bayport Container Terminal, staff recommends that the Port Commission enter into this contract with the City of La Porte for EMS services.

O. TECHNOLOGY

Subject	1. Approve staff's ranking and award services agreements for Next Generation (NXGEN) Enterprise Resource Planning (ERP), Phase III as follows: Aight Solutions, for implementation, consulting, and professional services in an amount not to exceed \$15,000,000 as to Scope 1; TREScope, for implementation, consulting, and professional services in an amount not to exceed \$970,000 as to Scope 1A; and TREScope, for implementation, consulting, and professional services in an amount not to exceed \$3,100,000 as to Scope 2.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting: (a) As to Scope 1: approve staff's ranking of the most qualified vendors, based on the selection criteria, in the following order – first, Aight Solutions; and second, Deloitte Consulting, LLP; and (i) award a services agreement for Next Generation (NXGEN) Enterprise Resource Planning (ERP), Phase III to Aight Solutions for implementation, consulting, and professional services based on the scope of work in the request for proposal, in an amount not to exceed \$15,000,000; (b) As to Scope 1A: approve staff's ranking of the most qualified vendors, based on the selection criteria, in the following order – first, TREScope; and second, Jones Lang Lassalle Technologies IP LLC; and (i) award a services agreement for NXGEN ERP, Phase III to TREScope for implementation, consulting, and professional services based on the scope of work in the request for proposal in an amount not to exceed \$970,000; (c) As to Scope 2: approve staff's ranking of the most qualified vendors, based on the selection criteria, in the following order – first, TREScope; and second, Jones Lang Lassalle Technologies IP, LLC; and (i) award a services agreement for NXGEN ERP, Phase III to TREScope for implementation, consulting and professional services based on the scope of work in the request for proposal in an amount not to exceed \$3,100,000; and (d) further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:

Awards, Amendments & Change Orders

Department:

Information Technology

Staff Contact:

Charles Thompson

Background:

The Port Authority is seeking to obtain Software Integrator (SI) consultants to assist it in the configuration, testing, and execution of the selected NXGEN ERP and ancillary applications to replace Oracle JD Edwards ERP and the retirement of other existing applications, as appropriate.

The NXGEN ERP Program has already addressed three phases.

- Phase I - requirements captured for features and functions, which were prioritized for importance by individual departments, and implementation strategies investigated.
- Phase II - AS-IS/TO-BE business process mapping independent of software, alignment of business processes to pain points, moments that matter, and the development of demonstration scenarios.

- Phase III - demonstration sessions provided by the leading Software as a Service (SaaS) application platform providers, which led to the selection of Workday as one of selected platforms.

This is only one part of Phase III in the NXGEN ERP Program. Phase III involved the formal procurement process to select appropriate SI consultants, and included an intradepartmental evaluation team comprised of individuals representing the Finance, Human Resources, Asset Management, Maintenance, and Information Technology departments. The process involved solicitation of responses, face-to-face presentations from short listed participants, multiple clarifications, and Best-and-Final-Offers (BAFO) to arrive at the recommendations outlined in this Request for Commission Action.

The Port Authority notified vendors regarding its request for proposals (RFP) using the Port Authority's BuySpeed Eprocurement System and the project was advertised on the Port Authority's website and in a local newspaper. Thirty-one vendors downloaded the project materials from BuySpeed.

Staff Evaluation/Justification:

The NXGEN ERP RFP – Phase III – implementation and support services was a divisible RFP, contained three parts and was released May 2023. On October 30, 2023, fifteen RFP responses were received and opened. The responses were reviewed and evaluated by staff in accordance with the selection criteria published in the RFP. Part 1 of the RFP had three proposals submitted, Part 1A had six proposals submitted, and Part 2 had six proposals submitted.

The first round of oral presentations was conducted virtually; proposers were then invited to participate in a second round of oral presentations, which were conducted face to face. Through the entire process, clarifications were requested and received.

Evaluations of these procurement phases were gauged against the "Benefit to the Port" criteria provided within the RFP, and the top rated proposers are:

- Scope 1: Alight Solutions
- Scope 1A: TREScope
- Scope 2: TREScope

Following staff Executive Committee review, staff recommends that the Port Commission award a contract to Alight Solutions and TREScope as proving best value, for the NXGEN ERP Phase III: implementation and support services, and act as otherwise described above.

O. TECHNOLOGY

Subject	2. Issue a purchase order to World Wide Technology LLC for professional services to perform a network assessment to improve its resiliency and redundancy, using Texas Department of Information Resources cooperative purchase program, in an amount not to exceed \$325,000.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting, issue a purchase order to World Wide Technology LLC for professional services to perform a network assessment to improve its resiliency and redundancy, using Texas Department of Information Resources cooperative purchase program, in an amount not to exceed \$325,000, determine that this procurement method provides the best value to the Port Authority, and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:

Awards, Amendments & Change Orders

Department:

Information Technology

Staff Contact:

Ron Farrow

Background:

The Port Authority is seeking to purchase professional services to perform a thorough network assessment to review and provide recommendations to improve network resiliency and redundancy. The Texas Department of Information Resources (DIR) is a department of the State of Texas and has cooperative purchasing programs which may be used by the Port Authority.

Staff Evaluation/Justification:

The Director of Procurement Services has determined that procuring professional services to perform these services through the Texas DIR purchasing program is the method that both satisfies competitive purchase requirements and provides best value to the Port Authority.

The Information Technology department has determined that the best availability, price, and contract term for the services needed is provided by World Wide Technology LLC under the pricing schedule obtained from that vendor's contract with DIR.

Accordingly, staff recommends that the Port Commission approve this best value determination and contract.

O. TECHNOLOGY

Subject **3. Issue a purchase order to SHI Government Solutions for the purchase of Information Technology servers and related hardware, software, subscriptions, maintenance, and support, to replace end of support server hardware, using Texas Department of Information Resources cooperative purchase program, in an amount not to exceed \$1,600,000.**

Meeting Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY

Access Public

Type Action

Recommended Action The Port Commission, at its December 12, 2023 meeting, issue a purchase order to SHI Government Solutions for the purchase of Information Technology servers and related hardware, software, subscriptions, maintenance, and support, to replace end of support server hardware, using Texas Department of Information Resources cooperative purchase program, in an amount not to exceed \$1,600,000, determine that this procurement method provides the best value to the Port Authority, and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:

Awards, Amendments & Change Orders

Department:

Information Technology

Staff Contact:

Ron Farrow

Background:

The Port Authority is seeking to purchase Information Technology (IT) server hardware, software, subscriptions, maintenance and support, and associated peripherals, to replace end of support server hardware, as identified in 2023. The Texas Department of Information Resources (DIR) is a department of the State of Texas and has cooperative purchasing programs which may be used by the Port Authority.

Staff Evaluation/Justification:

The Director of Procurement Services has determined that procuring IT server hardware, software, subscriptions, maintenance and support, and associated peripherals, to replace end of support server hardware as identified in 2023, through the DIR purchasing program is the method that both satisfies competitive purchase requirements and provides best value to the Port Authority.

The IT department has determined that the best availability, price, and contract term for the items needed is provided by SHI Government Solutions under the pricing schedule obtained from that vendor's contract with DIR.

Accordingly, staff recommends that the Port Commission approve this best value determination and contract.

O. TECHNOLOGY

Subject	4. Issue a purchase order to Durian Consultants LLC for purchase of professional advisory services, using the United States General Services Administration, in an amount not to exceed \$3,000,000.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting, issue a purchase order to Durian Consultants LLC for purchase of professional advisory services, using the United States General Services Administration, in an amount not to exceed \$3,000,000, determine that this procurement method provides the best value to the Port Authority, and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:

Awards, Amendments & Change Orders

Department:

Information Technology

Staff Contact:

Charles Thompson

Background:

The Port Authority is seeking to obtain professional advisory services for Workday Financials, Human Capital Management, Organizational Change Management, Program/Project Management, and technology aspects as the Port Authority's advocate during implementation of the NXGEN enterprise resource planning project.

Staff Evaluation/Justification:

The Director of Procurement Services has determined that procuring professional advisory services through the United States General Services Administration (GSA), an agency of the United States, is the method that both satisfies competitive purchase requirements and provides best value to the Port Authority. The Port Authority, as a political subdivision of the State of Texas, is authorized to use GSA for the procurement of certain items (primarily technology, security, and fire/police items).

The Information Technology department has determined that the best availability, price, and contract term for the item needed is provided by Durian Consultants LLC under the pricing schedule obtained from that vendor's contract with GSA.

Accordingly, staff recommends that the Port Commission approve this best value determination and contract.

O. TECHNOLOGY

Subject	5. Issue a purchase order to SHI Government Solutions for Next Generation (NXGEN) INFOSEC End Point Protection anti-virus (EPP/EDR) software for a five-year term, using Texas Department of Information Resources cooperative purchase program, in an amount not to exceed \$275,000.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting, issue a purchase order to SHI Government Solutions for Next Generation (NXGEN) INFOSEC End Point Protection anti-virus (EPP/EDR) software for a five-year term, using Texas Department of Information Resources cooperative purchase program, in an amount not to exceed \$275,000, determine that this procurement method provides the best value to the Port Authority, and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:

Awards, Amendments & Change Orders

Department:

Information Technology

Staff Contact:

Charles Thompson

Background:

The Port Authority is seeking to obtain approval, for a five-year term to be invoiced annually, for Next Generation (NXGEN) INFOSEC End Point Protection anti-virus (EPP/EDR) software. The Texas Department of Information Resources (DIR) is a department of the State of Texas and has cooperative purchasing programs which may be used by the Port Authority.

Staff Evaluation/Justification:

The Director of Procurement Services has determined that procuring the NXGEN INFOSEC EPP/EDR software through the Texas DIR purchasing program is the method that both satisfies competitive purchase requirements and provides best value to the Port Authority.

The demands of a distributed workforce require cloud-based monitoring of devices, no matter where they are in the world. Many EPP products include a technology called Endpoint Detection and Response (EDR). EDR provides Port Authority information security analysts and support desk technicians with the ability to remotely remediate information security events and incidents if the device can connect to the internet for incident detection and response. The purchase of the NXGEN INFOSEC EPP/EDR software was reviewed to ensure the best availability, price, and contract term for the item needed, which is provided by SHI Government Solutions under the pricing schedule obtained from that vendor's contract with DIR.

Accordingly, staff recommends that the Port Commission approve this best value determination and contract.

O. TECHNOLOGY

Subject	6. Issue a purchase order to MCA Communications Inc. for purchase of cameras and installation, using Texas Department of Information Resources cooperative purchase program, in an amount not to exceed \$174,000.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting, issue a purchase order to MCA Communications Inc. for purchase of cameras and installation, using Texas Department of Information Resources cooperative purchase program, in an amount not to exceed \$174,000, determine that this procurement method provides the best value to the Port Authority, and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:

Awards, Amendments & Change Orders

Department:

Information Technology

Staff Contact:

Charles Thompson

Background:

The Port Authority is seeking to implement Next Generation (NXGEN) INFOSEC Advanced Camera Replacement Project Phase 1. The Texas Department of Information Resources (DIR) is a department of the State of Texas and has cooperative purchasing programs which may be used by the Port Authority.

Staff Evaluation/Justification:

The Director of Procurement Services has determined that procuring items to support the NXGEN INFOSEC Advanced Camera Replacement Project Phase 1 through the DIR purchasing program is the method that both satisfies competitive purchase requirements and provides best value to the Port Authority.

The Information Technology department has determined that the best availability, price, and contract term for the item needed is provided by MCA Communications Inc. under the pricing schedule obtained from that vendor's contract with DIR.

Accordingly, staff recommends that the Port Commission approve this best value determination and contract.

O. TECHNOLOGY

Subject	7. Issue a purchase order to Aries Building Systems, LLC for purchase of a dedicated project management office space structure to support the Next Generation (NXGEN) Enterprise Resource Planning (ERP) implementation project, using Harris County Department of Education's Choice Partners, a cooperative purchase program, in an amount not to exceed \$260,000.
Meeting	Dec 12, 2023 - PORT COMMISSION OF THE PORT OF HOUSTON AUTHORITY
Access	Public
Type	Action
Recommended Action	The Port Commission, at its December 12, 2023 meeting, issue a purchase order to Aries Building Systems, LLC for purchase of a dedicated project management office space structure to support the Port Authority's Next Generation (NXGEN) Enterprise Resource Planning (ERP) implementation project, using Harris County Department of Education's Choice Partners, a cooperative purchase program, in an amount not to exceed \$260,000, determine that this procurement method provides the best value to the Port Authority, and further authorize the Executive Director to do any and all things in his opinion reasonable or necessary to give effect to the foregoing.

Category:

Awards, Amendments & Change Orders

Department:

Information Technology

Staff Contact:

Charles Thompson

Background:

The Port Authority is seeking to obtain a dedicated project management office space structure to support the Port Authority's Next Generation (NXGEN) Enterprise Resource Planning (ERP) implementation project. The multi-year project would include numerous intradepartmental resources working closely together to identify, define, plan, implement, and test the new business processes that are expected to be in place at the Port Authority for the next fifteen years, and this space will accommodate that function.

Staff Evaluation/Justification:

The Director of Procurement Services has determined that procuring dedicated project management office space to support the Port Authority's NXGEN ERP implementation project through the Harris County Department of Education's (HCDE) Choice Partners cooperative purchasing program is the method that both satisfies competitive purchase requirements and provides best value to the Port Authority.

The Information Technology department has determined that the best availability, price, and contract term for the item needed is provided by Aries Building Systems, LLC under the pricing schedule obtained from that vendor's contract with HCDE under its Choice Partners program.

Accordingly, staff recommends that the Port Commission approve this best value determination and contract.

