

A JOINT RESOLUTION OF
THE PORT of SEATTLE No. 3813 and PORT of TACOMA No. 2023-09-PT

Regarding Section 2106 and HMT Funds for 2023

WHEREAS, in 1986, Congress enacted the Harbor Maintenance Tax (“HMT”) to help fund operation and maintenance (O&M) costs at U.S. coastal and Great Lakes harbors through a tax on maritime shippers;

WHEREAS, the HMT is levied on importers and domestic shippers using coastal or Great Lakes ports at a rate of 0.125% of cargo value (\$1.25 per \$1,000 in cargo value). HMT is also assessed at a rate of 0.125% on the value of cruise passenger tickets;

WHEREAS, HMT operates to create a competitive disadvantage for American ports when compared with Canadian ports;

WHEREAS, HMT revenues are deposited into the Harbor Maintenance Trust Fund (HMTF) from which Congress appropriates funds for harbor dredging and other maintenance activity in federal waterways around the country;

WHEREAS, each port’s maintenance dredging needs vary, and what are now known as “HMT donor ports” such as the Ports of Seattle and Tacoma (also referred to collectively herein as “Homeports) generate far more HMT than they receive in return;

WHEREAS, HMT reform has long been a top priority of the Homeports and of the Northwest Seaport Alliance (NWSA);

WHEREAS, as a first step in addressing these longstanding concerns, a program has been created for donor ports under Section 2106 in the Water Resources Reform and Development Act of 2014 (WRRDA [AKA WRDA]) allowing Seattle, Tacoma, and other donor ports to offer incentives to shippers to help offset the HMT cost disadvantage relative to Canadian ports;

WHEREAS, Section 2106 funding also can be used for a limited number of “expanded uses” beyond the traditional uses of the HMT, including maintenance dredging in berths;

WHEREAS, prior to 2021, the NWSA elected to use Section 2106 funds for importer incentives, which were issued by Customs and Border Protection (CBP) under the structure established by WRDA 2014 and subsequent implementation guidance;

WHEREAS, in 2021 and 2022, per Homeport commission approval on Resolutions numbered 3788 and 3798 (Port of Seattle) and 2021-10-PT and 2022-01-PT (Port of Tacoma) Section 2106 funds were transferred by the Homeports to the NWSA to be used for infrastructure to allow other NWSA-generated funds to finance an incentive program that meets the NWSA objectives of increasing cargo through the gateway;

WHEREAS, when the Section 2106 program was established, the Homeports agreed that instead of the NWSA directly seeking Section 2106 funding, the Homeports would seek funding separately so as to increase the overall amount of funding to be provided to the NWSA gateway;

WHEREAS, in 2023 the Port of Seattle will receive approximately \$2.714 million, and the Port of Tacoma will receive approximately \$3.364 million in Section 2106 funds;

WHEREAS, due to difficulty in determining exactly what activity the Homeports' WRDA donor port funds are associated with, applying the HMT rate of .125% to Homeport and NWSA cargo and cruise activity that is subject to the HMT results in an estimate that about 97% of the 2022 WRDA Section 2106 funds are associated with cargo activity;

WHEREAS, both Homeports and NWSA have been engaged in HMT reform work over the last decade, and this work was undertaken specifically to address the competitive position of our gateway facilities compared with Canadian ports;

WHEREAS, the NWSA is in the best position to expend these 2106 funds for improvements in each harbor and incentive programs to enhance the competitiveness of the gateway;

WHEREAS, consistent with the actions in 2021 and 2022, in 2023, staff proposes that all funds received from a certain harbor in turn be used in that harbor in a timely manner; and

WHEREAS, Using the funds for the NWSA will reduce the capital contributions required when the WRDA 2106 funds are used on capitalized projects and/or increase cash flow from the NWSA when the funds are used on expensed projects.

NOW, THEREFORE, BE IT RESOLVED BY the PORT OF SEATTLE AND PORT OF TACOMA COMMISSIONS that:

Pursuant to Section 3.13 of the NWSA Charter regarding "Contributed Capital"

The Port of Seattle and the Port of Tacoma commit to contributing to the NWSA an amount equal to all Section 2106 / HMT funds received in 2023 to be spent in the corresponding harbor for projects that meet the allowable criteria;

The 2023 Section 2106 funds contributed to the NWSA by either the Port of Seattle or the Port of Tacoma for eligible uses shall not impact the membership interests of each Homeport in the NWSA;

NWSA shall utilize any 2023 Section 2106 funds provided by the Homeports in compliance with the requirements of any related agreement or memorandum of agreement executed by a Homeport with the Department of the Army, U.S. Army Corps of Engineers; and

The Homeports shall complete any reporting needed to adhere to the requirements of any agreement or memorandum of agreement executed by a Homeport with the Department of the Army, U.S. Army Engineers relating to any 2023 Section 2106 / HMT funds, including any funds transferred from the Homeports.

ADOPTED by a majority of the members of the Port of Tacoma Commission and by a majority of the members of the Port of Seattle Commission at a special meeting held on the 2nd day of May, 2023, majority of the members of both Port Commissions being present and voting on this joint resolution and signed by the Commissioners of both ports in authentication of its passage this 2nd day of May 2023.

PORT OF SEATTLE



Sam Cho, President
Port of Seattle Commission



Toshiko Hasegawa, Vice President
Port of Seattle Commission



Fred Felleman, Secretary
Port of Seattle Commission

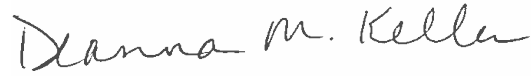


Ryan Calkins
Port of Seattle Commission



Hamdi Mohamed
Port of Seattle Commission

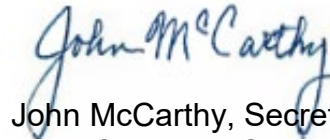
PORT OF TACOMA



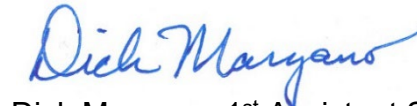
Deanna Keller, President
Port of Tacoma Commission



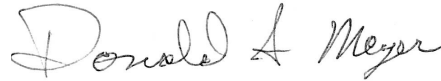
Kristin Ang, Vice President
Port of Tacoma Commission



John McCarthy, Secretary
Port of Tacoma Commission



Dick Marzano, 1st Assistant Secretary
Port of Tacoma Commission



Don Meyer, 2nd Assistant Secretary
Port of Tacoma Commission