PORT OF SEATTLE
RESOLUTION NO. 3789

A RESOLUTION of the Port Commission of the Port of Seattle to enact minimum wage and worker retention requirements applicable to certain employers located at Seattle-Tacoma International Airport, pursuant to the authority granted to the Port under RCW 14.08.120(2).

WHEREAS, the voters of King County authorized and approved the formation of a port district coextensive with King County to be known as the Port of Seattle in a special election on September 5, 1911; and

WHEREAS, the Port of Seattle was established upon election as a port district and has been since then, and is now, a duly authorized and acting port district of the state of Washington; and

WHEREAS, the Port Commission is the legally-constituted governing body of the Port of Seattle; and

WHEREAS, in accordance with RCW 14.08.030, the Port of Seattle owns and operates Seattle-Tacoma International Airport (the "Airport"); and

WHEREAS, RCW 14.08.120(1)(b) authorizes the Port of Seattle to adopt and amend all needed rules and regulations for the management, government, and use of airports and air navigation facilities under its control, including the Airport; and

WHEREAS, RCW 14.08.120(2)(a) provides that a municipality that controls or operates an airport having had more than twenty million annual commercial air service passenger enplanements on average over the most recent seven full calendar years that is located within the boundaries of a city that has passed a local law or ordinance setting a minimum labor standard that applies to certain employers operating or providing goods and services at the airport is authorized to enact a minimum labor standard that applies to employees working at the airport, so long as the minimum labor standard at least meets the minimum labor standard in the city's law or ordinance; and

WHEREAS, RCW 14.08.120(2)(b) provides that a municipality's authority to establish a minimum labor standard pursuant to (a) of this subsection may be imposed only on employers that are excluded from the minimum labor standard established by such city because the type of good or service provided by the employer is expressly excluded in the text of the city's law or ordinance; and

WHEREAS, the Airport has had more than twenty million annual commercial air service passenger enplanements on average over the most recent seven full calendar years (2014-2020); and

WHEREAS, in 2013, voters in the City of SeaTac enacted Proposition 1 ("Prop 1") (Ch. 7.45 SMC), which established a number of separate minimum labor standards for certain categories of employers located in the City of SeaTac; and

WHEREAS, the Airport is located within the boundaries of the City of SeaTac; and

WHEREAS, one minimum labor standard included by Prop 1 is the establishment of a minimum wage for certain categories of employers operating in the City of SeaTac; and

WHEREAS, Prop 1 set the initial minimum wage to be imposed on covered employers at $15.00 per hour beginning on January 1, 2015, subject to adjustment on January 1 of every subsequent year to keep pace with the rate of inflation (SMC 7.45.050); and

WHEREAS, the Prop 1 minimum wage for 2021 is $16.57 per hour; and

WHEREAS, Prop 1 also established a worker retention minimum labor standard for certain categories of employers operating in the City of SeaTac, in certain circumstances (SMC 7.45.060); and

WHEREAS, in *Filo Foods, LLC v. City of SeaTac*, 183 Wn.2d 770, 357 P.3d 1040 (2015), the Washington Supreme Court held that Prop 1 applies to employer categories covered by Prop 1 located at the Airport; and

WHEREAS, employers within the scope of Prop 1 who operate at the Airport currently are required to pay Prop 1-level wages and comply with Prop 1's worker retention requirement; and

WHEREAS, Prop 1 expressly excludes certain types of employers from its scope based on the type of goods or services they provide, including employers that prepare food or beverage to be served in-flight by an airline (SMC 7.45.010(G)); and

WHEREAS, pursuant to the authority specifically granted to the Port under RCW 14.08.120(2)(b), the Port seeks to enact minimum wage and worker retention requirements to apply to those employers that are expressly excluded from Prop 1's scope in the text of the ordinance because they engage in the preparation of food or beverage to be served in-flight by an airline; and

WHEREAS, pursuant to RCW 14.08.120(2)(d), any such minimum wage and worker retention requirements imposed by the Port of Seattle will apply only to covered employers that provide goods or services at the Airport from facilities that are located on property owned by the Port of Seattle within the boundaries of the City of SeaTac; and

WHEREAS, imposing minimum wage and worker retention requirements on employers who were expressly excluded in the text of Prop 1 because of the type of good or service the

employer provides is necessary and convenient, and in the best interests and for the benefit of the Port of Seattle, the affected employees, and the public; and

WHEREAS, consistent with RCW 14.08.120(2)(c), any minimum wage and worker retention requirement enacted by the Port of Seattle will not apply to employers at the Airport who were excluded from Prop 1 because they are a certificated air carrier performing services for itself or based on the employer's size or number of employees; and

WHEREAS, it is the Commission's intent that the minimum wage and worker retention requirements enacted by this Resolution will at least meet the minimum wage and worker retention requirements set forth in Prop 1 for employers covered by the ordinance.

NOW, THEREFORE, BE IT RESOLVED by the Port Commission of the Port of Seattle, that the following minimum labor standards are hereby enacted:

1. Employers that provide goods or services at the Airport and are engaged in the preparation of food or beverage to be served in-flight by an airline from facilities that are located on property owned by the Port of Seattle within the City of SeaTac shall pay their employees a wage that at least meets the hourly minimum wage established by Prop 1.

2. The minimum wage required to be paid under this Resolution shall be adjusted for inflation on the same schedule that the minimum wage set forth in Prop 1 is adjusted, so that the minimum wage required to be paid by an employer under this Resolution continuously at least meets the minimum wage amount required by Prop 1.

3. Employers subject to this Resolution shall be required to begin paying the minimum wage set forth herein no later than August 2, 2021 (the "Implementation Date").

4. Employers that provide goods or services at the Airport and are engaged in the preparation of food or beverage to be served in-flight by an airline from facilities that are located on property owned by the Port of Seattle within the City of SeaTac shall comply with a worker retention requirement that at least meets the worker retention requirement established by Prop 1.

5. This worker retention requirement shall become effective on the Implementation Date.

6. The Managing Director of the Aviation Division of the Port of Seattle is authorized and directed to promulgate and administer Rules and Regulations to carry out the provisions of this Resolution. The Rules and Regulations must be consistent with state and federal law and this Resolution.

ADOPTED by the Port Commission of the Port of Seattle, at a duly noticed meeting held this 27 day of July, 2021, and duly authenticated in open session by the signatures of the Commissioners voting in favor thereof and the seal of the commission.

Stephanie L. Bowman
Stephanie L. Bowman (Aug 10, 2021 10:05 PDT)

Ryan Calkins
Ryan Calkins (Jul 28, 2021 13:43 PDT)

Fred Felleman
Fred Felleman (Jul 29, 2021 08:37 PDT)

Peter Steinbrueck
Peter Steinbrueck (Aug 10, 2021 11:55 PDT)

Port of Seattle Commission

Resolution 3786

Final Audit Report   2021-08-10

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