

# Port Houston

## Standards and Procedures for Barge Fleeting Leasing

### January 2019



#### A. Introduction.

1. Background. The Port of Houston Authority of Harris County, Texas (the “Port Authority”) owns and has the authority to manage and regulate the submerged lands within its jurisdiction that lie beneath the Houston Ship Channel and the other waters of Buffalo Bayou, as well as beneath the other waterways tributary to the Houston Ship Channel and Buffalo Bayou.\*

#### 2. Purpose.

a. These Barge Fleeting Leasing Standards and Procedures (the “Standards”) are established as reasonable measures for implementation and management of Barge Fleeting (as defined below) leasing, as authorized by the Port Commission pursuant to the Policy (as defined below), and issuance of MCPs (as defined below) in connection therewith. These Standards are adopted pursuant to and are subject to the Policy.

b. These Standards are intended to support the leasing of suitable Submerged Lands (as defined below) for Barge Fleeting in a manner that: (a) facilitates safe and efficient commerce and navigation; (b) is reasonable and fair; (c) considers the needs of all interested parties; and (d) puts the important public resource of Submerged Lands to safe, productive, and appropriate use.

#### 3. Definitions.

a. “Barge Fleeting” refers to an activity that secures barges for storage for more than 72 hours, and includes barge staging activities, unless the latter is clearly identified as a separate activity and includes parking or shifting of barges associated with such long-term storage.

b. “Barge Staging” refers to an activity that secures barges for storage for less than 72 hours, and includes parking or shifting of barges associated with such short-term storage.

c. “Bay System” means water areas (bays, for example) that are not immediately adjacent to a Channel, stream, river, or bayou. The Bay Systems subject to these Standards include, without limitation, Tabbs Bay; Black Duck Bay; San Jacinto Bay (Upper and Lower); Scott Bay; Crystal Bay; Burnett Bay; Whites Lake; Bear Lake;

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\* For the conveyance of lands and submerged lands to the Port Authority and authority of the Port Authority to regulate same, see Chapter 5007, Texas Special District Local Laws Code, particularly Sections 5007.002 and 5007.004.

Grennel Slough; Muleshoe Lake; and an unnamed area in the San Jacinto River that opens up so much that it will be treated as a bay.

d. “Channel” means a trench, with a bottom and upper edges of its sides that are below water, used or capable of being used to accommodate navigation.

e. “Channel System” means areas adjacent to a Channel, river, creek, or bayou, and used or capable of being used in conjunction with such adjacent areas to accommodate navigation.

f. “Encumbered Area” means: (i) the area between the shoreline and the Fleeting Area; and (ii) if dredged, the area between the Fleeting Area and the Channel.

g. “Filled Area” means the area taken up by structures such as pilings and docks, or by filled-in areas that were previously submerged.

h. “Fleeting Area” means the area used for Barge Fleeting, Barge Staging, or for parking barges.

i. “Lease” means the written conveyance of a leasehold interest in Submerged Lands by the Port Authority as landlord to a tenant for use of designated Submerged Lands for Barge Fleeting, Barge Staging, parking barges, and other permitted uses, for specific periods, under specific rental rates and fees and other terms and conditions.

j. “Manmade Cut” means a “cut” made by excavation or similar mechanical process that is longer than it is wide, does not otherwise alter the shoreline, as determined case-by-case based on Texas law.

k. “Marine Structures” means any structure, work, or improvement constructed on, affixed to, or worked on Port Authority owned or managed submerged land, including fixed or floating piers, wharves, docks, pilings, breasting and mooring dolphins, bulkheads, spud barges, fill, riprap and matting, buoys, excavations, and dredging.

l. “MCP” means a marine construction permit issued by the Port Authority to permit construction, use, or both construction on and use of Submerged Land. A “Permitted Use MCP” means an MCP permitting use of Submerged Land for commercial activities, which may include Barge Fleeting. A “Permitted Project MCP” means an MCP permitting dredging, filling, material placement, and/or construction of any structure on Submerged Lands.

m. “Permitted Use Area” means the consolidated project area, or the Submerged Land leased premises, as applicable, and may include Encumbered Area, Filled Area, and Fleeting Area.

n. “Policy” means the Port of Houston Authority Barge Fleeting Leasing Policy adopted by the Port Commission on June 27, 2017, as evidenced by Minute No. 2017-0627-35.

o. “Port Commission” means the Port Commission of the Port of Houston Authority, the governing body of the Port Authority.

p. “Private Adjacent Uplands” means privately owned upland with a shoreline boundary.

q. “Riparian Rights” are the rights held by an owner of Private Adjacent Uplands of (i) reasonable non-exclusive use of the Private Adjacent Uplands shoreline and the immediately adjacent waters, and (ii) access to the water body from the Private Adjacent Uplands.

r. “Side Demarcation Line” means, in connection with Submerged Lands leases, each boundary line extending from uplands over Submerged Lands. The Side Demarcation Line shall be delineated by a line drawn from the point of intersection between each uplands property side boundary and the high-water line of the shore, and project from the adjacent uplands over the water body.

s. “Submerged Lands” means the submerged lands (below the line of the higher high tide) within the jurisdiction of the Port Authority that lie beneath the Houston Ship Channel and the other waters of Buffalo Bayou, as well as beneath the waterways tributary to the Houston Ship Channel and Buffalo Bayou.

t. “Submerged Lands - Private Adjacency” means Submerged Lands immediately adjacent to privately owned uplands.

u. “Submerged Lands - Port Authority Adjacency” means Submerged Lands adjacent to Port Authority-owned uplands.

v. “Submerged Lands - Open Water” means Submerged Lands under open water (i.e., without adjacent uplands).

w. “USACE” means the United States Army Corps of Engineers.

x. “USCG” means the United States Coast Guard.

B. Application and Scope.

1. The Port Authority may authorize Leases for Barge Fleeting on suitable Submerged Lands - Private Adjacency, Submerged Lands - Port Authority Adjacency, and Submerged Lands - Open Water in its sole discretion as provided herein.

2. Barge Fleeting shall not be conducted on any Submerged Lands unless it is a permitted use under a duly-authorized Lease with the Port Authority.

3. The Port Authority may establish in its sole discretion exclusion areas within which no Barge Fleeting or Barge Staging is permitted.

4. The Port Authority reserves the right to condition any MCP or Lease of a Permitted Use Area on the consent thereto by the owner of any Private Adjacent Uplands adjacent to such Permitted Use Area.

5. The Port Authority reserves the right to waive the requirement of a Lease for a Manmade Cut.

6. No rights in the Port Authority's real property, including its Submerged Lands and dredged material, are acquired by an applicant, proposer, or permittee, nor does the Port Authority recognize any claim to, or property interest in, Port Authority property, except pursuant to and in accordance with the terms of an MCP or Lease.

C. Unauthorized Activities and Structures.

1. Beginning on the Effective Date of these Standards as set forth below, Barge Fleeting on Submerged Lands - Private Adjacency, or placement or use of Marine Structures in connection therewith, or placement of dredged material, without the proper Lease and MCP, as applicable, shall be deemed unauthorized under the Policy.

a. No later than one hundred eighty (180) days after the Effective Date, the owner of the Private Adjacent Uplands from which such Barge Fleeting activities are conducted, or material or structures are placed or used, shall submit a proposal to the Port Authority as provided in Section H(1).

b. Beginning on the one hundred eighty first (181<sup>st</sup>) day after the Effective Date, any owner of the Private Adjacent Uplands from which unauthorized (as described in C.1. above) Barge Fleeting activities are conducted, or material or structures are placed or used, without the proper Lease and MCP, as applicable, or submittal of a proposal as provided in Section H(1) of the Standards, may be subject to a civil penalty of not more than \$200. Each day the activity continues or the structure remains on such Submerged Lands – Private Adjacency constitutes a separate offense. In the event that an

operator is conducting such activities or placing or using such materials or structures without the consent of the owner of the Private Adjacent Uplands, then the civil penalty may be assessed against such operator.

c. Notwithstanding the penalty described in C.1.b above, the Port Authority reserves its rights and remedies under law in the event any owner of the Private Adjacent Uplands fails to timely apply for the proper MCP and Lease as required above, or fails to diligently carry out the requirements herein.

2. Beginning on the Effective Date of these Standards, Barge Fleeting on Submerged Lands – Port Authority Adjacency or on Submerged Lands - Open Water, or placement or use of Marine Structures on such land, or placement of dredged material, without the proper Lease and MCP, as applicable, shall be deemed unauthorized under the Policy.

a. No later than one hundred eighty (180) days after the Effective Date, the party carrying out such Barge Fleeting activities, or responsible for such material or structure placement or uses, shall submit a proposal to the Port Authority as provided in Section H(2).

b. Beginning on the one hundred eighty first (181<sup>st</sup>) day after the Effective Date, the operator conducting any unauthorized (as described in C.2. above) Barge Fleeting activities, or placing or using material or structures, on Submerged Lands – Port Authority Adjacency or on Submerged Lands – Open Water without the proper Lease and MCP, as applicable, or submittal of a proposal as provided in Section H(2) of the Standards, may be subject to a civil penalty of not more than \$200. Each day the activity continues or the structure remains on such Submerged Lands – Port Authority Adjacency or on Submerged Lands – Open Water constitutes a separate offense.

c. Notwithstanding the penalty described in C.2.b above, the Port Authority reserves its rights and remedies under law in the event any party performing the activities described in section C(2) above fails to timely apply for the proper MCP and Lease as required above, or fails to diligently carry out the requirements herein.

3. Construction, dredging, and material placement shall not be conducted on Submerged Lands unless permitted under a duly-authorized MCP or Lease, or both, as applicable.

D. General Lease Standards. Each Lease shall require the following:

1. The tenant's conduct of Barge Fleeting shall not impede navigation, and the Port Authority reserves the right to condition Lease and MCP terms as necessary to support and enhance safe navigation.

2. The tenant's conduct of Barge Fleeting shall not impede the proper exercise of Riparian Rights and the Port Authority reserves the right to condition Lease and MCP terms as necessary to provide for such Riparian Rights.

3. The tenant shall have obtained the applicable MCP to permit Barge Fleeting.

4. The tenant shall establish and enforce a safety plan for the conduct of Barge Fleeting thereunder. Such safety plan shall conform to the requirements of the applicable MCP, and shall provide that:

a. The tenant shall conduct the permitted use in compliance with all applicable USCG policies and rules governing barge fleeting in general and in Harris County and the Houston area.

b. Such safety plan shall cover both normal operations and operations during adverse weather events.

c. The tenant shall provide the Port Authority with a copy of its safety plan upon the request of the Port Authority.

5. The Port Authority reserves the right to reject any and all Lease proposals for any reason at any time. Proposers shall have no rights to Port Authority reimbursement of its expenses incurred in proposing or otherwise in connection herewith.

E. Permitting Standards.

1. The Port Authority may issue MCPs to permit Submerged Lands construction, use, or both construction and use.

2. Dredging, material placement, and/or construction of any structure shall not be conducted on Submerged Lands unless permitted under a duly-authorized Permitted Project MCP.

3. Commercial activities including Barge Fleeting, but excluding use of waterways for transitory access and use by vessels supporting authorized activities (e.g., removal of trash, taking on water, crew changes, grocery/provision delivery, barge/vessel inspections, maintenance, and repair), shall not be conducted on Submerged Lands unless permitted under a duly-authorized Permitted Use MCP.

4. The Port Authority may in its sole discretion condition its issuance of an MCP on the grant of a Section 404/Section 10 Permit by the USACE.

F. Boundaries and Areas Standards.

1. Channel Systems.

a. MCPs and Leases adjacent to navigable Channels shall require any Permitted Use Area to be set back from the near edge of the navigable Channel within the waterway, at such distance as determined by the Port Authority in its sole discretion.

b. Where the navigable Channel is not marked or otherwise defined, the Port Authority reserves the right to establish in its sole discretion the navigable Channel corridor, i.e. the path taken by most motor vessels as may be determined by soundings or identified practice.

2. Side Demarcation Lines. The following standards are applicable to MCPs and Leases with respect to Submerged Lands adjacent to uplands.

a. The Port Authority shall not issue any Permitted Structure MCP or Permitted Use MCP or Lease Permitted Use Area that extends over the subject property's Side Demarcation Lines.

b. The Port Authority reserves the right to establish in its sole discretion the Side Demarcation Lines as needed for MCPs and Leases, including without limitation the angle at which any Side Demarcation Line meets the shoreline.

c. The Port Authority's determination of any Side Demarcation Line is not in derogation to real property titles.

3. Side Setbacks. Unless otherwise agreed to by neighboring property owners, and subject to Section F(1) above, MCPs and Leases shall require any Permitted Use Area to be set back ten (10) feet from each Side Demarcation Line.

4. Bay Systems. Except as hereinafter provided, but subject to Section F(1) above, the length of Permitted Use Areas extending into Bay Systems shall not exceed the width of its upland shoreline, measured on a straight line from shoreline corner to corner.

a. Permitted Use Areas shall not extend more than one thousand (1,000) feet into Bay Systems.

b. Permitted Use Areas shall not extend more than halfway to any other Bay System shoreline.

c. The Port Authority reserves the right to allow the length of a Permitted Use Area to exceed the width of its upland shoreline, in the event (i) the upland shoreline of such Permitted Use Area is less than three hundred (300) feet wide, as measured on a straight line from shoreline corner to corner, and (ii) the permitted use would allow one barge to moor perpendicularly (i.e. nose in) to the shoreline.

G. Lease Fees and Rates; Terms.

1. Fees.

a. Lease fees and rates shall include application fees, record drawing (“as-built”) deposits, security deposits, and rental payment amounts. The Port Authority reserves the right to amend such fees from time to time and impose additional fees in its sole discretion.

b. The Port Commission may establish, and from time to time update, Lease fees and rates for Submerged Lands - Private Adjacency, and may provide separate rates for Encumbered Areas, Filled Areas, and Fleeting Areas.

c. Lease rates for Submerged Lands - Port Authority Adjacency and for Submerged Lands - Open Water shall be determined on a case-by-case basis and negotiated by the Port Authority after it receives applications or proposal(s).

2. Terms. Except as otherwise agreed to by the Port Authority, Lease terms shall run for ten (10) years.

H. Proposal Procedures.

1. Submerged Lands - Private Adjacency. Only the owner of Private Adjacent Uplands contiguous with Submerged Lands - Private Adjacency, or a person to whom such owner has given consent, may obtain an MCP and Lease of a Permitted Use Area that includes such Submerged Lands - Private Adjacency.

a. The owner of Private Adjacent Uplands contiguous with Submerged Lands - Private Adjacency, or a person to whom such owner has given consent, seeking to engage in Barge Fleeting in a Permitted Use Area that includes such Submerged Lands - Private Adjacency shall submit a proposal to the Port Authority that includes the following:

i. Maps, drawings, and plans showing in reasonable detail the location and design of the proposed Lease premises and Permitted Use Area, including the proposed fleeting site, mooring tackle, buoys, dolphins, and spud barges, and other relevant details, and the estimated surface area of each of these encumbrances;

ii. An application for any MCP required for the proposed construction (if any) and use;

iii. A proposed safety plan, in accordance with Section D(4) of these Standards;

iv. Reasonable proof of ownership of the Private Adjacent Uplands, and if submitted by a person other than the owner, proof of the owner's consent to the application, Lease, and MCP;

v. The applicable application fees; and

vi. Any other information the Port Authority deems relevant to the proposed construction and use, including engineering, environmental, and land survey information, and which may include the consent provided for in Section B(4).

b. If the proposal is inadequate, incomplete, or unacceptable, the Port Authority will advise the applicant of those deficiencies, and request that they be addressed, or that the proposal has been rejected.

c. Upon a determination that the proposed fleeting activities and Permitted Use Area complies with the Policy and these Standards, the Port Authority will inform the proposer.

i. Rental rates will be calculated from the Port Commission-established rates.

ii. The Port Authority additionally reserves the right to require the proposed applicant execute a proposed Lease form in advance of Port Commission approval.

iii. If the proposal involves construction, dredging, or other activity requiring a federal permit, the applicant shall apply to the USACE for such permit. The Port Authority reserves the right to provide for a Lease "feasibility period," during which the USACE permit may be applied for and issued.

d. Staff will thereafter request that the Port Commission consider the Lease and related MCP at its next public meeting. The Port Commission may either award the Lease and approve the MCP based on the proposal, request further action on the proposal, or reject the proposal.

2. Submerged Lands - Port Authority Adjacency and Submerged Lands - Open Water. The Port Authority accepts applications for MCPs and Leases of Permitted Use

Areas covering Submerged Lands - Port Authority Adjacency and Submerged Lands - Open Water from any interested party, and the Port Authority may additionally issue requests for proposals for such Leases. The Port Authority reserves the right to issue public requests for proposals at any time, whether or not it has received unsolicited proposals.

a. Unsolicited Proposals.

i. A party seeking to engage in Barge Fleeting in a Permitted Use Area that includes Submerged Lands - Port Authority Adjacency or Submerged Lands - Open Water shall submit a proposal to the Port Authority that includes the following:

(a) Maps, drawings, and plans showing in reasonable detail the location and design of the proposed Lease premises and Permitted Use Area, including the proposed fleeting site, mooring tackle, buoys, dolphins, and spud barges, and other relevant details, and the estimated surface area of each of these encumbrances;

(b) A proposed safety plan, in accordance with Section D(4) of these Standards;

(c) Information about the proposed tenant, including its principals and its experience in marine barge fleeting;

(d) The Lease rates that the applicant is offering, and the desired term of the Lease;

(e) The applicable application fees; and

(f) Any other information the Port Authority deems relevant to the proposed construction and use, including engineering, environmental, and land survey information, and which may include the consent provided for in Section B(4).

ii. If the proposal is inadequate, incomplete, or unacceptable, the Port Authority will advise the applicant of those deficiencies and that the proposal has been rejected, or request that they be addressed.

iii. Provided such deficiencies have been addressed, Port Authority staff will review the proposal and make an initial determination. Such determination may include, without limitation, the following:

(a) The proposed Lease premises are not available to lease at this time;

(b) The proposed Lease premises are available for lease, subject to Port Authority public solicitation; or

(c) The proposed Lease premises are available for lease, and the Port Authority will proceed to negotiate its terms with the proposer.

iv. Upon a determination that the proposed fleeting activities and Permitted Use Area complies with the Policy and these Standards, and the proposed terms are otherwise acceptable, the Port Authority will inform the proposer.

(a) The proposer must submit an application for any MCP required for the proposed construction (if any) and use.

(b) The Port Authority additionally reserves the right to require the proposed applicant execute a proposed Lease form in advance of Port Commission approval.

(c) If the proposal involves construction, dredging, or other activity requiring a federal permit, the Lease will provide that the Port Authority will apply to the USACE for such permit, and the parties will enter into a separate permit reimbursement agreement whereby tenant agrees to reimburse the Port Authority for the costs of applying for such permit. The Port Authority reserves the right to provide for a Lease “feasibility period,” during which the USACE permit may be applied for and issued.

v. Staff will thereafter request that the Port Commission consider the Lease, related MCP, and any permit reimbursement agreement at its next public meeting. The Port Commission may either award the Lease and approve the MCP and permit reimbursement agreement based on the proposal, request further action on the proposal, or reject the proposal.

b. Public Requests for Proposals.

i. Proposals submitted in response to a Port Authority public request for proposals must provide all of the information required by the request.

ii. If a proposal is inadequate, incomplete, or unacceptable, the Port Authority may advise the proposer of those deficiencies and that the proposal is unacceptable, or request that they be addressed.

iii. Upon a determination that one of the proposals offers the best overall value to the public and the Port Authority in accordance with the Policy and these Standards, and the proposed terms are otherwise acceptable, the Port Authority will inform the proposers.

iv. If the selected proposal involves construction, dredging, or other activity requiring a federal permit, the Lease will provide that the Port Authority will apply to the USACE for such permit, and the parties will enter into a separate permit reimbursement agreement whereby tenant agrees to reimburse the Port Authority for the costs of applying for such permit. The Port Authority reserves the right to provide for a Lease “feasibility period,” during which the USACE permit may be applied for and issued.

v. Staff will thereafter request that the Port Commission consider the proposed Lease, related MCP, and any permit reimbursement agreement at its next public meeting. The Port Commission may either award the Lease and approve the MCP and permit reimbursement agreement based on the recommended proposal, request further action on the proposals, or reject the proposals.

I. Evaluation Considerations. The Port Authority may consider, without limitation, the following matters in connection with its evaluation of applications and proposals for MCPs and Leases.

1. Public Interest. Is the proposed Lease in the public interest?
2. Navigation and Commerce. Does the proposed Lease affect the efficiency of navigation or commerce?
3. Navigation Safety. Does the proposed Lease affect navigation safety?
4. Dredged Material Placement. Does the proposed Lease, including Lease premises and term, affect future placement of dredged material?
5. Subject to Policy. Is approval of the proposed Lease or permit application / proposal in accordance with the policies of the Barge Fleeting Leasing Policy?
6. Past Commercial Use. Does the proposed Lease or permit application / proposal affect the past commercial uses and/or practices of the landowner (in connection with Submerged Lands – Private Adjacency)?

J. Debriefings, Variances and Appeals.

1. Debriefings.
  - a. Within seven (7) calendar days after final Port Authority staff or Port Commission action with respect to a MCP application or Lease proposal, a proposer may request a debriefing on the Port Authority’s action. The Port Authority will provide the debriefing within ten (10) business days or as soon as reasonably possible after request.

b. The Port Authority will handle requests for access to information in connection therewith in accordance with the Texas Public Information Act (Chapter 552, Texas Government Code).

c. Requests for oral briefings about the Port Authority's action regarding an application or proposal shall be made as provided in Section J(4)(a) below. Requests for records pursuant to this section shall be made as provided in Section J(4)(b) below.

2. Variances. The Port Authority may consider requests for variances from these Standards in the following circumstances, without limitation.

a. The conditions of the Private Adjacent Uplands, Permitted Use Area, or the adjacent Submerged Lands reasonably require variation from these Standards; or

b. The permitted use under the proposed Lease cannot be reasonably conducted without variation from these Standards.

3. Appeals.

a. Within seven (7) calendar days after final Port Authority staff or Port Commission action with respect to a Lease proposal, a proposer may appeal the Port Authority's action on the grounds set forth in Section J(3)(b) below.

i. Appeals under this Section J(3) are limited to the Port Authority's determination of Lease rates.

ii. Appeals regarding Port Authority staff or Port Commission action with respect to a MCP application or any other action regarding Lease proposals shall be addressed to the Port Commission pursuant to its Public Comment Policy.

b. Notice of such appeal shall be given as set forth in Section J(4)(a) below, and the applicable filing fee should be delivered to the Port Authority no later than five (5) business days following such notice.

c. Such notice shall address the basis for appealing the Lease rate, and include all relevant information to support the appeal, and contact information.

i. Supporting documentation may include drawings or other depictions with accompanying measurements, recorded deeds, closing documents, and

other materials. The Port Authority will retain such documentation in connection with its consideration of the appeal.

ii. The appellant may request to meet with Port Authority staff in person to present information regarding its appeal, which shall be held at the Port of Houston Authority Executive Building, 111 E. Loop North, Houston, Texas.

d. The Port Authority will designate a panel of two or more Port Authority staff members to determine the merits of the appeal.

i. No later than ten (10) business days following completion of its consideration of the merits of the appeal, the panel shall decide on its merits, and the Port Authority shall notify the appellant of its decision via its contact information provided to the Port Authority.

ii. No later than thirty (30) calendar days thereafter, the Port Authority shall take such actions as directed by the panel.

iii. The decision of the panel is final, provided the appellant may address such matter to the Port Commission pursuant to the Port Commission's Public Comment Policy.

4. Contact Information.

a. Requests for debriefings or appeals regarding the Port Authority's action regarding an application or proposal shall be sent to the Channel Development Department via email ([chandev@poha.com](mailto:chandev@poha.com)), by telephone (713.670.2594), or by hard copy (Port of Houston Authority, Attn: Channel Development Department, 111 E. Loop North, Houston, TX 77029).

b. Public information requests shall be sent to the Public Information Officer via email ([publicinformationrequest@poha.com](mailto:publicinformationrequest@poha.com)), by facsimile (713.670.2611), or by hard copy (Port of Houston Authority, Attn: Public Information Officer, 111 E. Loop North, Houston, TX 77029).

K. Governing Law and Venue. MCPs issued and Leases entered into by the Port Authority shall be governed by, construed, and enforced in accordance with the laws of the State of Texas. Any and all suits, actions at law, or judicial proceedings arising under or in connection with any MCP and/or Lease shall be instituted and maintained in the state courts located within Harris County, Texas.

L. Responsibilities. The Channel Development Department is responsible for implementation of these Standards. The Channel Development Director, or such other

persons as may be designated by the Executive Director, is responsible for interpretation and resolution of issues related to these Standards, and may take actions that are necessary or appropriate in carrying out these Standards.

M. Non-binding Statement of Intent. These Standards are a nonbinding statement of intent, which does not create a property interest in any person, does not constitute a contractual obligation of the Port Authority to others, and does not waive any of the Port Authority's immunities under law, including the Port Authority's immunity from suit and immunity from liability. The Port Authority reserves the right to assert every defense to any claim that is available to it under law.

N. Authorization. These Standards have been authorized by the Executive Director, in accordance with the Policy. The Port Authority reserves the right to amend these Standards at any time. Additionally, nothing in these Standards restricts or impedes the discretion of the Port Commission with respect to the matters set forth herein.

APPROVED BY:   
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Executive Director

Effective Date: January 1, 2019

Policy Owner: Channel Development  
Policy Version: Original