

RESOLUTION 22-12

AUTHORIZING THE ADOPTION OF THE POLICY ON THE USE OF PORT OPPORTUNITY FUNDS IN ACCORDANCE WITH SECTION 62.1-132.3:1 OF THE CODE OF VIRGINIA OF 1950 AS AMENDED

WHEREAS, Section 62.1-132.3:1 of the Code of Virginia of 1950 as amended created a special nonreverting fund that is a subfund of the Commonwealth Port Fund, known as the Port Opportunity Fund;

WHEREAS, moneys in the Fund shall be used to fund the development and implementation of a national and international marketing program and to provide incentives, as prescribed by the Board of Commissioners, for expanding the use of Virginia Port Authority facilities for the import and export of containerized and noncontainerized cargoes; and

WHEREAS, the Board of Commissioners has been presented at its meeting the proposed Policy on the Use of Port Opportunity Funds, in compliance with the requirements of Section 62.1-132.3:1 of the Code of Virginia for consideration and approval.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE VIRGINIA PORT AUTHORITY, as follows:

Section 1. Approval of the Policy on the Use of Port Opportunity Funds. The Policy on the Use of Port Opportunity Funds with an effective date of September 15, 2022 (the "Policy") presented to the Board is hereby approved in the form presented at this meeting.

Section 2. Ratification: Further Action. The actions previously taken by the officers and staff of the Authority in furtherance of this Resolution are hereby ratified and confirmed. The officers and staff of the Authority, any of whom may act, are hereby authorized to take such actions, and deliver such additional documents and certificates, as they may, in their discretion, deem necessary or proper in connection with the adoption of this Resolution.

Section 3. Effective Date. This Resolution shall take effect immediately upon its adoption.

PASSED AND ADOPTED this 12th day of September 2022.

Aubrey L. Layne, Board Chair

Attest:

Ryanne A. Shields, Secretary

**VIRGINIA PORT AUTHORITY
POLICY ON USE OF PORT OPPORTUNITY FUNDS**

PREFACE: The Virginia General Assembly, in 2012, established a nonreverting fund that is a subfund of the Commonwealth Port Fund, known as the Port Opportunity Fund (hereinafter “the Fund”). See Virginia Code Section 62.1-132.3:1. Pursuant to the statute, “*the Fund shall be used ... to provide incentives, as prescribed by the Board of Commissioners, for expanding the use of Virginia Port Authority facilities for the import and export of containerized and noncontainerized cargoes.*” The statute further provides that the Board of Commissioners approve guidelines for the use of incentives from the Fund. The policy that follows shall serve as the guidance for implementation of incentives.

I. **DEFINITIONS:**

Beneficial Cargo Owner (“BCO”): entity who owns the goods or services being imported or exported through the Virginia Port Authority Facilities

Developer: an entity or company that invests in real property in order to develop or redevelop it for use by a 3PL or beneficial cargo owner as a facility that complements and drives cargo to Virginia Port Authority facilities

Exporter: an entity sending goods abroad from the United States

Importer: an entity bringing goods into the United States from abroad

Third Party Logistics Provider (“3PL”): an entity or company that offers third party outsourced logistics services, including the management of one or more facets of procurement, shipping, and fulfillment activities

Port-Centric Development – financial investment made in capital development projects in the Commonwealth of Virginia by Beneficial Cargo Owners, developers, or 3PLs that generate sustained cargo volume through VPA Facilities

Virginia Port Authority Facilities (“VPA Facilities”): includes Norfolk International Terminals (“NIT”), Newport News Marine Terminal (NNMT), the Virginia International Gateway Terminal (“VIG”), Portsmouth Marine Terminal (“PMT”), and two inland intermodal facilities: Richmond Marine Terminal (“RMT”) and the Virginia Inland Port (“VIP”)

II. **ADMINISTRATION:**

Incentives from the Fund are granted at the discretion of the Executive Director of the Virginia Port Authority (VPA) for the purpose of supporting initiatives that generate additional cargo volume through the Commonwealth of Virginia and the VPA Facilities. Awards from the Fund will be limited to the total value of money that is available in the Fund for the fiscal year in which the award is made. The Executive Director of the Virginia Port Authority may grant incentive awards from the Fund as follows:

- a. Transportation Planning - Moneys from the fund may be administered to host localities of Developer or 3PL facilities or to Developers for transportation capacity planning on and off site of a development that will generate cargo volume through VPA Facilities; studies of road and rail access transportation projects, including environmental analysis, geotechnical assessment, survey, design and engineering, traffic analysis, and financial analysis; or anything else permitted by law.

- b. Port-Centric Development - Moneys from the Fund may also be used to secure a formal agreement for Port-Centric Development by Importers, Exporters, Developers, BCOs, or 3PLs that generates cargo volume through VPA Facilities.

Upon determination by the Executive Director that incentives should be awarded, disbursement of the incentives shall not occur until an incentive agreement is in place with the recipient outlining the terms of the award.

- For Transportation Planning funds, the incentive agreement shall outline the allowable use of the funds, the maximum allowable amount to be expended and should require verification of funds expended in furtherance of the project before any funds will be disbursed to the recipient.
- For Port-Centric Development investment and volume based incentives, the incentive agreement shall include the capital investment and/or cargo volume performance measurements, which shall be verified prior to disbursement being made under the agreement.