

**PORT OF SEATTLE**  
**MEMORANDUM**

**COMMISSION AGENDA**

**Item No.** 5b  
**Date of Meeting** February 10, 2009

**DATE:** February 4, 2009

**TO:** Tay Yoshitani, Chief Executive Officer

**FROM:** Michael Burke, Senior Manager, Container Leasing and Operations  
Christine Wolf, Seaport Strategic Planning & Policy/Land Use  
Michael Campagnaro, Manager, Container Leasing and Operations

**SUBJECT:** Request for Authorization for the Chief Executive Officer to execute a Possession and Use Agreement between Washington State Department of Transportation (WSDOT), the Port of Seattle and Total Terminals International LLC (TTI) for the partial taking of Port of Seattle Terminal 46 for the S. Holgate Street to S. King Street Viaduct Replacement Project.

**BACKGROUND**

The Port of Seattle (the "Port") owns Terminal 46 which is leased to Total Terminals International (TTI). The Washington State Department of Transportation (WSDOT) desires to proceed with the southern portion of the Alaskan Way Viaduct and Seawall Replacement Project, the S. Holgate Street to S. King Street Viaduct Replacement Project.

The south section of the Alaskan Way Viaduct, from S. Holgate Street to S. King Street, accounts for about 40 percent of the entire structure. The project is a safety priority, because this section of the existing viaduct is vulnerable to earthquakes. Its foundations sit in unstable fill soil that could liquefy in an earthquake.

The S. Holgate Street to S. King Street Viaduct Replacement Project will:

- Replace the viaduct's south end with a new facility.
- Provide new SR 99 on and off-ramps near S. King Street, improving access to downtown.
- Create an underpass for freight coming to and from the Port of Seattle.
- Relocate the existing BNSF Railway (BNSF) Seattle International Gateway (SIG) Yard tail track to the west.

Port staff has worked closely with the Viaduct project team in the design of this project. The current design approach minimizes the land in fee needs on the eastern side of the operational area of Terminal 46 and guarantees access to the terminal during construction. The project will relocate the SIG Yard tail track in its current length, allowing the BNSF to retain its current operational capacity. It will also construct an underpass grade-separating the new tail track from

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Port truck and other traffic, improving access to the North SIG Yard and the freeway system over current conditions.

The Port has received a proposal for the purchase of necessary property and/or property rights at Terminal 46. The property needed for the project is shown on the attached drawing, with the land in fee requirement shown in red, and temporary construction easements in the terminal lease are in other colors. Based on the appraisal prepared for WSDOT, the purchase offer is \$6,566,299. This offer consists of \$5,922,840 for 87,582 square feet of land in fee, \$767,129 for 94,358 square feet of temporary construction easements, \$13,550 for the contributory value of asphalt paving and chain-link fence improvements, \$20,000 for parking lot reconfiguration and re-striping damages, and a deduction for special benefits in the amount of \$157,350. The Port has hired an appraiser to complete an independent appraisal. This appraisal is not completed; therefore the Port cannot provide the State with their opinion of fair market value, or to complete the financial transaction. Initial analysis indicates that there will be some minor adjustments to the proposed compensation.

Under normal conditions, WSDOT would acquire property and property rights under a Purchase and Sale Agreement or through Condemnation prior to the actual bid advertisement for the project work. However WSDOT currently has a late February, 2009 bid advertisement date for the construction of Phase I of the S. Holgate Street to S. King Street portion of the Alaska Way Viaduct project. Without Port and TTI approval by February 10, 2009 the WSDOT project could be delayed with the potential for incurring additional costs and risks.

In order to proceed with the project, WSDOT has proposed a Possession and Use agreement for the property and property rights they wish to acquire. A Possession and Use Agreement would allow WSDOT possession and use of the property without the Port having to relinquish the underlying property rights and without TTI having to relinquish its underlying leasehold rights. This approach enables the Port and TTI to carry out their own appraisals of the required land in fee, temporary easements, and other contract components and to negotiate appropriate compensation. At the same time, WSDOT can proceed with the project. Port staff and TTI staff have worked with WSDOT on the planning of this project and support this approach.

Subject to Port Commission approval, Port staff and TTI staff have reached agreement under the Possession and Use Agreement on the allocation of the WSDOT offer. The Port would receive all of the value for the fee acquisition by WSDOT and TTI has agreed to waive any rights to such compensation. The Port/TTI lease will be amended to reflect a reduction in the leased area with a corresponding reduction in rent. TTI would receive the value for the Temporary Construction Easements as TTI is in possession of the premises. TTI would not be entitled to rent abatement under the Port/TTI lease for the temporary construction easement areas. WSDOT will pay the Port as outlined above on July 31, 2009, subject to the final determination of value for the fee acquisition area.

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Once agreement with WSDOT is reached on the final price the Port will return to the Commission and ask for adoption of a resolution declaring the fee area surplus and deleting it from the Comprehensive Scheme as well as authorizing the sale. The Port will also return to the Commission requesting approval to amend the Total Terminals International lease reflecting the reduction in leased area.

WSDOT will reimburse the Port up to \$750 for the cost of appraisal review. The Ports independent appraisal cost is expected to be approximately \$20,000.

TTI has signed the Possession and Use Agreement. WSDOT will fully execute the agreement following Port approval.

## **ALTERNATIVES CONSIDERED/RECOMMENDED ACTION**

### **Alternative #1: Agree to the Possession and Use Agreement and subsequent Sale to WSDOT.**

The sale of Terminal 46 Alaskan Way frontage will allow the State to eliminate the safety risk comprised by the existing SR-99 structure in the vicinity of the terminal, replace the facility, and construct an underpass grade-separating the Port's truck traffic from the new SIG yard tail track. **This is the recommended alternative.**

### **Alternative #2: Do not agree to the Possession and Use Agreement and subsequent sale to WSDOT.**

This alternative was rejected because Port and TTI staff support the project and associated transportation improvements.

A no sale alternative would only serve to delay the proposed WSDOT project as WSDOT has the ultimate ability to use its power to condemn the property.

## **FINANCIAL IMPLICATIONS**

### **Source of Funds**

No funds needed

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### Financial Analysis Summary

<b>CIP Category</b>	N/A																								
<b>Project Type</b>	N/A																								
<b>Risk adjusted Discount rate</b>	7.0%																								
<b>Key risk factors</b>	<ul style="list-style-type: none"> <li>The Port may incur additional costs, including legal costs, which may or may not be reimbursed by the State of Washington.</li> <li>If agreement on property value/selling price can not be reached with the State, and mediation or litigation become necessary, the Port may incur significant legal costs to resolve this issue.</li> </ul>																								
<b>Project cost for analysis</b>	N/A																								
<b>Business Unit (BU)</b>	Seaport Container Operations.																								
<b>Effect on business performance</b>	<p>The proposed sale of approximately 2 acres will result in a reduction of lease revenue from the Terminal 46 container terminal. Following is the impact over the next 5 years:</p> <table border="1"> <thead> <tr> <th><b>NOI (in \$000's)</b></th> <th><b>2009</b></th> <th><b>2010</b></th> <th><b>2011</b></th> <th><b>2012</b></th> <th><b>2013</b></th> </tr> </thead> <tbody> <tr> <td>NOI</td> <td>(\$193)</td> <td>(\$214)</td> <td>(\$220)</td> <td>(\$220)</td> <td>(\$267)</td> </tr> <tr> <td>Depreciation</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> <td>\$0</td> </tr> <tr> <td>NOI After Depreciation</td> <td>(\$193)</td> <td>(\$214)</td> <td>(\$220)</td> <td>(\$220)</td> <td>(\$267)</td> </tr> </tbody> </table> <ul style="list-style-type: none"> <li>This proposed sale was anticipated in the 2009 Operating Budget, so the sale will not create an unfavorable variance to the 2009 Budget.</li> <li>The gain of the sale of the land will be recorded as Non-Operating Revenue.</li> </ul>	<b>NOI (in \$000's)</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	NOI	(\$193)	(\$214)	(\$220)	(\$220)	(\$267)	Depreciation	\$0	\$0	\$0	\$0	\$0	NOI After Depreciation	(\$193)	(\$214)	(\$220)	(\$220)	(\$267)
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<b>NPV</b>	<p>The estimated sales proceeds of \$5.9 M are approximately equal to the present value of the lost future lease payments on the 2 acres discounted at 7.0%:</p> <table border="1"> <tr> <td><b>NPV</b> (in \$000's)</td> <td><b>(\$30)</b></td> </tr> </table>	<b>NPV</b> (in \$000's)	<b>(\$30)</b>																						
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### ENVIRONMENTAL/COMMUNITY BENEFITS

The Possession and Use Agreement allows WSDOT to proceed with a critical transportation link for the Port and the community.

### PROJECT SCHEDULE

It is anticipated that the sale of the Terminal 46 frontage to WSDOT can be closed by August 1, 2009.

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### **REQUESTED ACTION**

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