

PORT OF SEATTLE
MEMORANDUM

COMMISSION AGENDA
ACTION ITEM

Item No. 5e
Date of Meeting August 6, 2013

DATE: July 25, 2013
TO: Tay Yoshitani, Chief Executive Officer
FROM: Melinda Miller, Director Portfolio and Asset Management
Sean Sullivan, Real Estate Manager
SUBJECT: Fiber Optic Line Easement with WDH Black Rock, LLC along a section of the Eastside Rail Corridor Right-of-Way in Snohomish County

Amount of This Request: \$0.00 **Source of Funds:** N/A
Net Proceeds to the Port: \$2,500.00

ACTION REQUESTED

Request Commission authorization for the Chief Executive Officer to execute a Fiber Optic Line Easement with WDH Black Rock LLC for an area along a section of the Eastside Rail Corridor right-of-way in Snohomish County, substantially as drafted as Attachment B, to accommodate the installation and maintenance of an aerial fiber optic communications line parallel to the railroad tracks between approximately milepost 37.22 and milepost 37.35 in Snohomish County as shown on the drawing attached hereto as Attachment A.

SYNOPSIS

The fiber optics line to be installed by WDH Black Rock LLC is a small part of a much larger federally funded economic development project administered by NoaNet, Washington state's nonprofit broadband provider, to expand its open access broadband network to an additional 170 communities that are currently underserved. The easement allows WDH Black Rock to install and maintain an aerial fiber optic communications line to run overhead and parallel to the railroad tracks within the Eastside Rail Corridor. The compensation for the Fiber Optic Easement is based on a recent market appraisal with consideration of the type and length of the easement requested.

BACKGROUND

The Port of Seattle has the responsibility to oversee, maintain, preserve and protect the real estate rights within the Eastside Rail Corridor right-of-way acquired in December 2009. This includes consideration of existing construction and maintenance agreements, permits, licenses and easements. The Port's role in its ownership of the corridor includes addressing any and all requests for new third-party rights and interests in the Port's right-of-way, while ensuring that the requested uses do not infringe upon the Port's current and/or prospective uses.

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The Port received an Application for Wire Line Agreement from Black Rock Cable Inc. (now known as WDH Black Rock LLC) related to the installation and maintenance of an aerial fiber optic communications line to run overhead and parallel to the railroad tracks within the rail corridor. The Port's Legal Department determined that an easement would be required to accommodate this request.

This easement is related to a small portion of a much larger collaborative, economic development project coordinated by the federal government's Broadband Technology Opportunities Program. The program involves the installation of an open-access broadband network to provide reliable high-speed connectivity to broader, underserved areas, including those across the state of Washington. This easement provides WDH Black Rock LLC the means to install and maintain the fiber optic line and supporting poles to expand the network to outlying and often economically challenged areas.

Port staff obtained and reviewed all relevant documentation relating to the proposed overhead installation and has completed all of their due diligence. The Port's Engineering Department has determined that the request conforms to standard rail industry utility accommodation guidelines. Additionally, the Fiber Optic Line Easement (attached as Attachment B) has been approved as to form by the Port's Legal, Environmental, and Risk Management Departments.

In considering the Fiber Optic Easement, Port staff has reviewed the installation and maintenance of the fiber optic communications line from the perspective of safety and rail worker protection, current freight operations and prospective uses of this section of the corridor in mind. Consideration was given to allow for the continued accommodation of additional utility installations proposed by public and/or private utility services.

Compensation for the Fiber Optic Line Easement was established by a current market appraisal of the right-of-way at the location of the easement. An "at-the-fence" fee simple land value per square foot was established by the appraiser. The compensation for the easement was set at \$2,500.00.

TRIPLE BOTTOM LINE

This easement provides WDH Black Rock LLC the means to install and maintain a fiber optic network, with lines and supporting poles, to connect outlying and often economically challenged areas to the greater network.

ALTERNATIVES AND IMPLICATIONS CONSIDERED

Alternative 1) Deny the request for an easement. Denial of the easement would create a significant delay in completing the connections of the planned broadband network, as an alternative fiber line right-of-way would need to be planned and procured. This is not the recommended alternative.

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Alternative 2) Grant the easement as described herein. Granting the easement provides the means to fulfill the goals of the Federal programs/grants, to complete the connections of the broadband network to outlying and traditionally underserved communities. **This is the recommended alternative.**

ATTACHMENTS TO THIS REQUEST

- Attachment A: Map of Proposed Easement Location.
- Attachment B: Fiber Optic Line Easement, including Exhibits A and B.

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS

None.