

PORT OF SEATTLE
MEMORANDUM

COMMISSION AGENDA
ACTION ITEM

Item No.	4f
Date of Meeting	October 28, 2014

DATE: October 3, 2014
TO: Ted Fick, Chief Executive Officer
FROM: Mark C. Griffin, Director, Real Estate Development
SUBJECT: First Addendum to the Amended and Restated Second Development Agreement with the City of Des Moines

ACTION REQUESTED

Request Commission authorization for the Chief Executive Officer to execute a first addendum to the Amended and Restated Second Development Agreement with the City of Des Moines.

SYNOPSIS

The Commission authorized execution of an Amended and Restated Second Development Agreement with the City of Des Moines at its June 10, 2014 meeting. The proposed first addendum clarifies future ownership of the stormwater and critical areas tracts within the Des Moines Creek Business Park site and conforms the terms of the development agreement to the terms of the option and ground lease agreements between the Port and Panattoni Development Company, Inc., also approved in June.

BACKGROUND

At the June 10, 2014, meeting, the Commission authorized execution of an Amended and Restated Second Development Agreement with the City of Des Moines (City) to enable development of the Des Moines Creek Business Park. The Commission also authorized execution of an option agreement and related ground lease agreements with Panattoni Development Company, Inc. at this same meeting.

The development agreement addresses the roles, responsibilities, and obligations between the Port, as the owner of the business park site, and the City as the permitting authority. Panattoni, as the developer, has assumed the Port's obligations under the development agreement as provided for in the option agreement. The Des Moines City Council unanimously approved the second development agreement at its February 20, 2014, meeting.

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One of Panattoni's obligations under the development and option agreements is submission of a short plat to subdivide the business park site. In reviewing Panattoni's proposed short plat, staff identified an inconsistency between the terms of the development agreement and Des Moines City Code related to the transfer of ownership of both the stormwater detention tracts and the environmentally critical areas tracts (e.g., wetlands, steep slopes) to be created by the short plat.

The proposed first addendum clarifies that the Port will transfer ownership of the two stormwater tracts to the City after Panattoni has completed construction of each facility, instead of upon recordation of the short plat, establishing consistency with the terms of the option and ground lease agreements.

The proposed first addendum also allows for continued Port ownership of the three critical areas tracts as provided for in the option and ground lease agreements. The three critical areas tracts total about 6.52 acres. While these tracts are not developable, Panattoni can include the tracts in the determination of how much of the business park site can be covered with development. Because of this value to Panattoni, the Port will receive initial rent on these tracts of about \$11,360 annually.

The ground lease requires Panattoni to manage the critical areas tracts in accordance with all applicable laws and regulations. This creates stronger and more direct accountability for ongoing maintenance of these areas than if they were transferred to the City as part of short plat process, as currently provided in City code.

The City approved execution of the first addendum at its September 25, 2014 meeting. Panattoni needs full execution of the proposed first addendum to finalize and record the short plat.

ATTACHMENTS TO THIS REQUEST

- Attachment 1 – First Addendum to the Amended and Restated Second Development Agreement

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS

- 06/10/2014 – Commission authorized execution of an option agreement and related ground lease agreements with Panattoni Development Company, Inc. or an affiliated entity; and (2) an amended and restated second development agreement with the City of Des Moines.