



**COMMISSION  
AGENDA MEMORANDUM**

**Item No.**

4d

**ACTION ITEM**

**Date of Meeting**

April 11, 2017

**DATE:** April 3, 2017

**TO:** Dave Soike, Interim Chief Executive Officer

**FROM:** Melinda Miller, Director, Portfolio & Asset Management  
Lily Ninburg, Property Manager, Portfolio & Asset Management

**SUBJECT:** Ten-year Submerged Land Lease with one ten-year option to extend with Duwamish Waterway Association (DWA) dba Jim Clark Marina at Terminal 102

**ACTION REQUESTED**

Request Commission authorization for the Chief Executive Officer to execute a term lease, substantially as drafted and attached, with Duwamish Waterway Association (DWA) dba Jim Clark Marina at Terminal 102 for a term of ten years with one 10-year option to extend. No funding is requested.

**EXECUTIVE SUMMARY**

The current 10-year lease with Duwamish Waterway Association (DWA) expires on June 30, 2017. A Right of First Negotiation clause in their current lease obligates the Port to pursue an agreement with DWA unless we choose to change the use of the submerged land. Alternatives were explored and, given the nature of the property - submerged land - its location, and its compatibility with the adjacent Harbor Island Marina, Port staff determined that this is the highest and best use of the property.

When DWA notified the Port of their intent to negotiate another long-term lease, the Port commissioned an appraisal of the property and conducted analysis of comparable properties. The appraisal and analysis provided the basis for the term sheet for a new long-term lease. Staff subsequently negotiated with the Lessee on the terms laid out in the initial Letter of Intent, until both parties reached agreement on the key terms of a 10-year lease with one 10-year option to extend.

**JUSTIFICATION**

This lease supports the Century Agenda statement that “the Port of Seattle will use its real estate, capital assets and financial capabilities to accomplish the Century Agenda. These are tools to thoughtfully steward, rather than areas well-suited for specific 25-year goals.”

It also supports the Economic Development Division Business Strategy to “strategically position the Economic Development Division’s diverse portfolio of commercial real estate assets to

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achieve positive return on the public’s investment through effective asset management while ensuring compliance with all legal, financial and regulatory aspects of public entity ownership of real property.”

This term lease is for submerged land (116,075 square feet) and a sliver of upland space (499 square feet) located at Terminal 102 on the Duwamish Waterway immediately south of the West Seattle Bridge next to Harbor Marina Corporate Center. DWA has operated a non-profit cooperative marina association at this location for 40 plus years, even though the ownership of land and marina assets has changed hands a few times (For details, please refer to the section on previous commission actions or briefings). Currently, the Port owns the land and DWA owns the Marina Assets.

DWA expressed intent to pursue another long term lease at the same location. Alternatives were explored and, given the nature of the property - submerged land - its location, and its compatibility with the adjacent Harbor Island Marina, Port staff determined that this is the highest and best use of the property, and decided that it is mutually beneficial to honor the Lessee’s Right of First Negotiation clause in the current lease. The new term lease represents a 28% increase in rent with DWA taking on all maintenance and repair responsibilities. The tenant is planning major capital projects such as replacing dock thru-rods, floats, and pilings and re-building five slip boathouses etc. Without a long-term lease in place, DWA would not be able to commit to these capital investment projects to update its aging marina assets.

**DETAILS**

- **Property:** Appx. 116,075 sf of submerged land and 499 sf of upland area at T102.
- **Use:** Wet moorage of boats and activities associated with marina operations.
- **Initial Term:** 10 years from July 1, 2017 to June 20, 2027.
- **Option to Extend:** One option to extend for another 10 years.  
Rent to be renegotiated if extended.  
Tenant plans on major capital investment projects including, but not limited to, replacing pilings and dock-through rods, hence the desired long term.
- **Base Rent:** \$98,766/year (about 28% increase from current lease).
- **Annual CPI Increase** Base rent will be increased by CPI annually.
- **Utilities:** Lessee shall be responsible for the furnishing of and paying for all utilities necessary for marina operations.
- **Maintenance & Repairs:** Lessee shall be responsible for all maintenance & repairs on the leased premises.
- **Alterations and Improvements:** Lessee shall not make any major upgrades, repairs and replacements without the Port' written approval.

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- **Prevailing Wage:** Any improvements made by Lessee’s contractors and/or subcontractors will require the payment of the local prevailing wage.
- **Ownership of Marina Assets:** Lessee owns all marina assets, which revert back to the Port's ownership upon lease expiration or termination.
- **Surety:** \$55,000 which is slightly over 6 months of rent as recommended by Port policy.
- **Real Estate Broker Fee:** No broker fee.
- **Port Investment** No investment by the Port.

**ALTERNATIVES AND IMPLICATIONS CONSIDERED**

**Alternative 1** – The Port can decide to sell the submerged land or change the use of the property to something other than marina. Given the nature of the property - submerged land - and the location of the Property, Port staff did not identify a better alternative use that would be more beneficial to the Port.

Cost Implications: Forgo minimum base rent of \$98,766 annually.

Pros:

- (1) Port might be able to find a different tenant if a different use is determined and established.

Cons:

- (1) This use is compatible with the Port’s adjacent Harbor Island Marina operated by the Maritime Division.
- (2) Port runs risk of losing an established marina run by a non-profit cooperative that has been leasing this property for 40 plus years and would disrupt this long-term marine service.
- (3) May cause concern from the long-standing tenant with whom the Port and other former owners have had a very positive relationship.

This is not the recommended alternative

**Alternative 2** – Negotiate and execute a long-term lease with new competitive market rates by honoring Lessee’s First Right of Negotiation to guarantee revenue with no upfront costs and maintain a solid and positive relationship with current tenant who has been running a reputable non-profit cooperative marina under the current lease.

Cost Implications: No investment by the Port.

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Pros:

- (1) Additional net revenue to the Port (\$98,766 annual minimum base rent representing a 28% increase to current lease rate).
- (2) Maintain continuity in leasing relationship, but also provides stability and certainty for the Lessee who is planning on taking on a list of major upgrades including replacing pilings under the docks.

Cons:

- (1) A more competitive offer is potentially viable, albeit a far-fetched one, given the Right of First Negotiation clause in current lease, unless a new alternative use is identified and established.

***This is the recommended alternative.***

**ADDITIONAL BACKGROUND**

The Port sold marina assets to DWA in November 2006 prior to entering into a 10-year submerged land lease that will expire on June 30, 2017. The sale of marina assets were memorialized through Resolution No. 3566 as amended. In the commission memo dated November 13, 2006, five rebuild alternatives were considered, four of which had negative NPV and one has a long breakeven period of 13 years, hence the decision to sell Marina Assets to DWA.

**ATTACHMENTS TO THIS REQUEST**

- (1) Draft of New Lease Agreement
- (2) Presentation

**PREVIOUS COMMISSION ACTIONS OR BRIEFINGS**

November 21, 2006 – The Commission passed Resolution No. 3566, As Amended, declaring certain personal property (“Marina Assets”) located at Terminal 102, surplus and no longer needed for Port District purpose, thus deleting the Marina Assets from the Comprehensive Scheme of Harbor Improvements of the Port of Seattle; The Commission also authorized the execution of a Purchase and Sale Agreement and all other necessary documents providing for the sale of the Marina Assets to DWA and a 10-year lease (July 1, 2007 – June 30, 2017) with DWA.

January 12, 1999 – The Commission passed Resolution No. 3092 to rename Anchor Marina (aka Duwamish Waterway Association) to Jim Clark Marina.

August 25, 1998 – The Commission authorized the purchase of 12.26 acres of submerged land (including DWA leased premises) and 4.83 acres of uplands and 130,000 square feet of office/warehouse buildings from ROMI (previously known as Harbor Island Marina Associates) at T-102. With this purchase, Port’s lease with ROMI was no longer in effect; DWA then became the tenant of the Port again.

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- October 22, 1996 – The Commission authorized the purchase of Marina Assets owned by DWA for \$300,000 and six privately owned boat houses for \$120,500 formerly owned by the Port but sold to Harbor Associates.
- September 26, 1995 – The Commission approved the sale of Port-owned land located at Terminal 102 to Harbor Associates (“Harbor”). This sale included submerged land that was leased by the Port to DWA. With the sale, DWA became a tenant of Harbor, which then agreed to transfer the lease back to the Port so that Port could, in return, sublease the land back to DWA under the same terms and conditions of its original Port lease that would expire in 2003.
- November 3, 1992 – The Commission authorized to execute a new 10-year term lease with DWA effective on September 1, 1993.
- July 26, 1988 – The Commission authorized to amend the lease that became effective on September 1, 1983. New rates for different periods of the remaining lease terms were established.
- June 22, 1982 – The Commission authorized to execute a new 10-year term lease with DWA effective on September 1, 1983.
- January 13, 1976 – The Commission authorized to amend the lease that became effective on September 1, 1973. More submerged land area was added to the existing lease premises.
- September 28, 1973 – The Commission authorized to execute a new 5-year term lease with DWA effective on September 1, 1973.
- May 22, 1973 – The Commission authorized for public invitation to bid for piers, floats, pilings etc. at Anchor Marina at Terminal 102 West. Minimum bid was set at \$7,500.