

PORT OF SEATTLE
MEMORANDUM

COMMISSION AGENDA

Item No.	5b
Date of Meeting	July 14, 2009

DATE: June 29, 2009

TO: Tay Yoshitani, Chief Executive Officer

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

SUBJECT: First Amendment to the Possession and Use Agreement between Washington State Department of Transportation (WSDOT), the Port of Seattle and Total Terminals International LLC (TTI) at Terminal 46.

ACTION REQUESTED

Request for Authorization for the Chief Executive Officer to execute the First Amendment to the 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 S. Holgate Street to S. King Street Viaduct Replacement Project is one of the “Moving Forward” projects associated with replacing the Alaskan Way Viaduct with a bored tunnel along the central waterfront and is critical to public safety because the viaduct is at risk of failure from earthquakes. This project replaces the south end of the viaduct, which accounts for about 40 percent of the entire structure. It also improves freight and traffic mobility by providing new on-and-off ramps for SR-99 near S. King Street to improve access to downtown; by creating an underpass for freight coming to and from the Port; and by relocating the existing BNSF Seattle International Gateway (SIG) Yard tail track to the west.

The Port owns certain Real Property at Terminal 46, currently leased to Total Terminals International (TTI), that WSDOT needs to proceed with the S. Holgate Street to S. King Street Project. On February 10, 2009, the Port of Seattle Commission granted approval to the Chief Executive Officer to execute a Possession and Use (P&U) Agreement between Washington State Department of Transportation (WSDOT), the Port, and TTI, granting WSDOT certain property rights. (A copy of the February 10, 2009, Commission memo explaining the Possession and Use Agreement in greater detail is attached.)

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The P&U Agreement allowed WSDOT to advertise for bidders for the construction of Phase I of the project in February 2009 before WSDOT had acquired the Real Property from the Port through a Purchase and Sale Agreement or through Condemnation. Otherwise, the project would have been delayed. Once the Port and WSDOT agree on the final price for this property, Port staff will request Commission approval of a resolution declaring this fee area surplus, deleting it from the Comprehensive Scheme and authorizing the sale.

WSDOT has requested several revisions of the P&U Agreement because of project design changes. These revisions include a 423-foot reduction to the fee acquisition area, reconfiguration for the temporary easement areas, and changes to the durations to the temporary easements. Due to the increase in both the area and the durations of the temporary easements, WSDOT's revised offer is raised from \$6,566,299 to \$6,998,700. A breakdown of the area and compensation difference between the original Possession and Use Agreement and the First Amendment to the Possession and Use Agreement are as follows:

	Possession and Use Agreement Per Commission Memo dated February 10, 2009	First Amendment to Possession and Use Agreement
Fee Area	87,582 Square Feet	87,159 Square Feet
Fee Area Purchase Offer payable to the Port	\$5,922,840	\$5,920,350
Temporary Construction Easement Area	94,358 Square Feet	113,540 Square Feet
Removal & Installation of Security Cameras		\$10,000
Temporary Construction Easement Offer payable to TTI	\$767,129	\$1,227,800
Asphalt Paving and Chain-link fence improvements	\$13,550	Same
Parking Lot Reconfiguration and restriping	\$20,000	Same
Deduction for Special Benefits to the Port	\$157,350	\$193,020

All other terms and conditions of the P&U Agreement are unchanged. TTI, as Lessee of the Temporary Construction Easement (TCE) Property, has full control of the TCE Property and is entitled to receive the State's offer for the purchase of temporary construction easement rights to the TCE Property, including payment for removal and reinstallation of three security cameras. TTI waives its rights, if any, that it may have to receive any portion of the State's offer for the Port Property. The State will issue a warrant in the amount of \$5,760,900 to the Port and a warrant in the amount of \$1,237,800 to TTI, on July 31, 2009.

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Port staff worked closely with the project team to ensure that WSDOT's requirements for land in fee needs were minimized and that TTI's access to Terminal 46 was guaranteed during construction.

TTI has signed the First Amendment Possession and Use Agreement. WSDOT will fully execute the agreement following the Commission's approval.

PREVIOUS COMMISSION ACTION

On February 10, 2009, the Commission authorized the Chief Executive Officer to execute a Possession and Use Agreement between the Washington State Department of Transportation (WSDOT), the Port of Seattle and Total Terminals International for the partial taking of Terminal-46 for the S. Holgate Street to S. King Street Viaduct Replacement Project.