


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

**COMMISSION AGENDA**

Item No.	<u>6f</u>
Date of Meeting	<u>August 25, 2009</u>

**DATE:** July 7, 2009

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

**FROM:** Joan Knutson, Assistant Manager, Industrial Properties  
Scott Pattison, Manager, Industrial Properties 

**SUBJECT:** Fourth Amendment to CityIce Cold Storage Company's Lease #131  
at Terminal 91

**REQUESTED ACTION:**

Request for Port Commission authorization for the Chief Executive Officer to execute the Fourth Amendment to Lease #L000131 with CityIce Cold Storage Company allowing subleases and assignments subject to Port's prior written approval and conditions of such approval.

**BACKGROUND:**

CityIce Cold Storage Company ("CityIce") is a long-term tenant of the Port of Seattle ("Port") at Terminal 91. CityIce holds four leases with the Port - for land, cold storage facilities and dry warehouse buildings.

CityIce entered into lease #L000131 with the Port on November 10, 1987. This lease was subsequently amended on May 14, 1991, June 8, 1993 and May 30, 2003. The lease has strict limitations on the ability to sublease or assign the lease which hamper the interests of the Port and CityIce.

This proposed Fourth Amendment to the lease affords CityIce the ability to sublease or assign the lease to other parties subject to prior written approval of the Port and subject to any conditions of such approval.

**DESCRIPTION AND JUSTIFICATION:**

- CityIce currently has several subtenants under this lease, which is not in compliance with sublease terms of the lease as currently written.
- Amending the lease to allow subleases or an assignment of the lease, subject to prior written approval of the Port and subject to any conditions of such approval,



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would enable CityIce to bring the agreement into compliance with terms of the lease, while retaining key business partners.

- Affording CityIce the ability to propose sublease and or assignment of the lease would allow the Port to entertain alternative commercial arrangements that may better serve Port interests over time.
- Upon approval of the Fourth Amendment, Port staff would draft "Conditional Consent to Sublease" documents for existing subleases under this lease.
- The Port and CityIce would then work collectively to ensure the lease is brought into, and maintained in full compliance with these lease terms and conditions.
- The "Assignment and Sublease" sections of the lease would be consistent with current Port practices.

### **STRATEGIC OBJECTIVES:**

- Ensure lease terms and conditions are monitored and maintained in full compliance over the lease term.
- Establish lease terms and conditions that are commercially viable and serve the interests of the Port.

### **BUSINESS PLAN OBJECTIVES:**

- Proceeding with this Amendment would allow this tenant to bring its lease into compliance, while retaining strategic subtenants that serve the mutual interests of CityIce and Port in the short and long term.

### **FINANCIAL IMPLICATIONS:**

#### **Budget/Authorization Summary**

Previous Authorizations	None
Current request for authorization	None
Total Authorizations, including this request	None
Remaining budget to be authorized	None

#### **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>	N/A
<b>Key risk factors</b>	<ul style="list-style-type: none"><li>• Assignment, subletting, or license by CityIce does not relieve tenant of any obligation under the lease thereby mitigating default risk of potential assignees.</li></ul>
<b>Project cost for analysis</b>	None
<b>Business Unit (BU)</b>	Industrial Properties
<b>Effect on business performance</b>	<ul style="list-style-type: none"><li>• This amendment waives the obligation of CityIce to provide the Port with a percentage of excess rent in the event a subtenant pays CityIce more than the rent they pay to the Port.</li></ul>
<b>IRR/NPV</b>	N/A

### **ALTERNATIVES CONSIDERED AND THEIR IMPLICATIONS:**

- Do not revise lease terms for subleases or assignments. CityIce would be required to terminate and evict existing subtenants, and the Port would not have the ability to assess the merits of such subtenancies. This may not serve the Port's short or long-term objectives and is therefore not recommended.
- Amend the current lease agreement's sublease and assignment terms to those more consistent with Port lease agreements, thereby enabling the Port to bring the current lease into full compliance while retaining those subtenants deemed in the Port's interest; and longer term, the Port would have the ability to consider proposed sublease or assignment alternatives and accept, condition, or deny on a case-by-case basis. This is the recommended alternative.

### **PREVIOUS COMMISSION ACTIONS OR BRIEFINGS:**

- November 10, 1987- CityIce entered into lease #L000131 with the Port
- May 14, 1991 – First Amendment
- June 8, 1993 – Second Amendment
- May 30, 2003 – Third Amendment

