

PORT OF SEATTLE
MEMORANDUM

COMMISSION AGENDA

Item No. 5d

Date of Meeting July 13, 2010

DATE: July 7, 2010

TO: Tay Yoshitani, Chief Executive Officer

FROM: Michael Burke, Senior Manager, Container Leasing and Operations
Michael Campagnaro, Manager, Container Leasing and Operations

SUBJECT: Accounts Receivable Write-Off for Western Cartage, Inc.

ACTION REQUESTED: Request for Commission authorization for the Chief Executive Officer to write off \$337,171.36 in outstanding accounts receivables owed to the Port by Western Cartage in accordance with Resolution No. 3605, as amended, Section 10.2.

SYNOPSIS:

On June 23, 2005, the Port of Seattle and Western Cartage, Inc. (“Western Cartage”) entered into a five-year term lease agreement for the premises described as 387,930 square feet of yard and 41,280 square feet of warehouse, that included 4,800 square feet of office located at Terminal 104.

Western Cartage, a casualty of the economic downturn, was in default in the payment of rent from November 2008 to April 2009. Port staff recognized that with the economic climate there was little potential to rent the property to another tenant in the immediate near term. Prior to issuing the default notice, Port staff entered into discussions with Western Cartage on the potential for rent restructuring to allow Western Cartage more time to meet its lease obligation. These discussions did not produce a potential settlement.

On March 4, 2009, the Port claimed against the Western Cartage lease bond for \$78,018.00 and cash deposit for \$42,965.46, and applied the total amount to outstanding balances.

The Port continued its efforts to collect outstanding rent. After several efforts to collect monthly rent and work with Western Cartage to cure the default, the Port proceeded with legal action to evict tenant.

The Port was granted judgment in a suit filed by the Port’s Legal department, and on April 30, 2009, it was ordered, adjudged and decreed that Western Cartage was guilty of unlawful detainer and its tenancy of Terminal 104 was terminated. The Port was awarded judgment against Western Cartage to collect all rent arrearages, utilities,

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finance and maintenance charges, including all other costs and attorney's fees. The Port found no attachable assets in the corporation's asset search.

As of June 1, 2010, Western Cartage, Inc. has ignored all collection efforts. An asset search revealed that Western Cartage has a long list of creditors. The Judgment will remain in effect for 10 years. At this time, it would be futile for the Port to engage in further collection attempts.

In hindsight, Port staff could have moved more quickly to evict Western Cartage and not try to negotiate a restructured lease to reduce book losses. Following lease termination, the property was offered for lease through a Request for Proposal process and is now under lease at a rate reflecting the current market conditions.

Resolution No. 3605 requires the Commission to approve writing off any accounts receivable over \$300,000.

BACKGROUND:

Western Cartage was delayed with rent payments starting in November 2008, and Port staff made past due reminder letters and phone calls to collect past due amounts. The escalating collection efforts by the Credit Analyst, such as assigning to a third party collection agency, were on hold waiting for the Property Manager's corresponding actions.

The first default/unlawful detainer letter was sent to Western Cartage on December 11, 2008. The default/unlawful detainer letter was followed with e-mail correspondence and meetings between Western Cartage and Port staff. The Port utilized its Legal staff for all collection efforts.

The Port's General Counsel brought action in courts of law and was awarded judgment. The Port found no assets to attach to the corporation. Therefore, furthering all collection efforts at this point would be ineffective. If the Port assigned this account to a third party collection agency, the agency would close the account because it is a no asset case.

As of today, the Port's records indicate accounts receivable due the Port from Western Cartage total approximately \$337,171.36, as outlined in the table below.

Base Rent & Other Charges	\$387,554
Sales Tax	\$164
Leasehold Tax	\$32,580
Lease Bond	(\$78,018)
Cash Deposit	(\$42,965)
Bad Debt Reserve to Write Off	\$299,315
Non-Operating Finance Charges to Credit	\$37,856

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Total Outstanding Receivables from Tenant

\$337,171

This account has been uncollectable for more than 180 days. According to Section 10 of Resolution No. 3605, as amended, if an account is still uncollectable after 180 days or more, the CEO is authorized to provide for writing off such an account. Any amount in excess of \$300,000 shall be referred to the Commission for final approval of writing off that account.

The Seaport Division requests approval for the CEO to write off this uncollectible account, and contends that Port staff has made every reasonable effort to resolve or accomplish the collection of the account.

FINANCIAL ANALYSIS:

Financial Analysis Summary:

CIP Category	N/A
Project Type	N/A
Risk adjusted Discount rate	N/A
Key risk factors	N/A
Project cost for analysis	\$337,171.36
Business Unit (BU)	Container Support Properties
Effect on business performance	<ul style="list-style-type: none">• Of the total amount owed by Western Cartage, \$299,315 in rents, sales tax, and leasehold tax were expensed as Bad Debt in 2009 creating a Bad Debt Reserve account. The write-off of that portion of the balance will be charged against the reserve and, accordingly, will have no impact on 2010 Net Operating Income.• The \$37,856 in finance charges were recorded as Non-Operating revenue in 2008 and 2009. The reversal of these charges will have no impact on 2010 Net Operating Income, but will reduce Non-Operating Income by \$37,856.

ALTERNATIVES CONSIDERED AND THEIR IMPLICATIONS:

- Continue efforts to collect bad debt. Western Cartage has ignored all collection efforts and it had no attachable assets. Further pursuit would not justify the collection and legal staff's efforts. If the Port assigned this account to a third party collection agency, the agency would close the account because it is a no asset case. *This is not the recommended alternative.*

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- Write off outstanding receivables owed to the Port for \$337,171.36. Should Western Cartage pay in the future, the amount would be applied toward recovering this bad debt. *This is the recommended alternative.*

OTHER DOCUMENTS ATTACHED WITH THIS REQUEST:

- Letter from accounting requesting authorization to write off account dated April 28, 2010 (Attachment A).
- Finding of fact, conclusions of law, judgment, and order for writ of restitution dated April 30, 0009 (Attachment B).

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS:

- None