

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

**COMMISSION AGENDA**

Item No. 6b  
Date of Meeting September 7, 2010

**DATE:** August 25, 2010

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

**FROM:** Joe McWilliams, Managing Director, Real Estate  
Craig Watson, General Counsel

**SUBJECT:** Settlement of Condemnation Action by City of Des Moines to Acquire Port Property Needed for the South Correctional Entity Jail Facility

**Net Proceeds from Settlement:** \$2,050,000  
**Reimbursement Due City of Des Moines:** \$440,000

**ACTION REQUESTED:**

Request Commission authorization for the Chief Executive Officer to execute all documents necessary for settlement of the condemnation action by the City of Des Moines (City) to acquire Port-owned property and other property interests necessary for the construction of the South Correctional Entity (SCORE) jail facility.

**BACKGROUND AND JUSTIFICATION:**

In April, 2009, the City, on behalf of SCORE, condemned Port owned property for construction of a multijurisdictional jail. On August 10, 2009, the Port granted the City use and possession of the property and jail construction is well underway. At the time it took possession of the property, the City paid the Port \$2,490,000, the value concluded by the City's appraiser. The Port's appraiser disagreed with the City's opinion of value.

Subsequently, SCORE indicated that its original value determination was based on inaccurate assumptions about the property (access, utilities, useable square footage and environmental) that did not come to light until SCORE began construction of the jail. SCORE concluded that the property was actually worth \$482,550. The Port disagreed with SCORE's position.

The case is scheduled for trial on October 25, 2010. Mediation was held on August 19, 2010, and the parties arrived at a proposed settlement that fairly represents the risk and costs of taking the matter through trial.

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### **RECOMMENDATION:**

The recommendation is to approve the settlement terms outlined below:

1. City will pay the Port \$2,050,000 in just compensation for the taking of the Port property. The \$2,490,000 previously paid by the City to the Port will be credited against the just compensation amount and the Port will reimburse the City a total of \$440,000.
2. The Port will stipulate to a Decree of Appropriation transferring to the City all title and right to the Port property.
3. The Port will grant SCORE a quit claim deed as to any rights the Port may have on that portion of 18<sup>th</sup> Avenue South between 200<sup>th</sup> and 208<sup>th</sup> owned by the City of SeaTac, the road that will provide access to the jail site.
4. The Port will grant SCORE a temporary construction easement to construct a ditch that will maintain the flow of Port stormwater from the adjacent Port property.
5. The Port will grant SCORE or PSE easements for the construction of 2 electrical vaults on adjacent Port property that will serve the SCORE facility and any future development of the adjacent Port property.
6. SCORE will grant the Port an easement for access to the adjacent undeveloped Port property.

### **ALTERNATIVES CONSIDERED:**

**Proceed to Trial.** Aside from incurring significant attorney and expert fees, the Port would be taking a risk that the jury verdict could come in significantly lower than the settlement amount.

**Approve Settlement.** The proposed settlement resolves all outstanding issues with the City and SCORE related to the value of the Port property, as well as other property rights necessary for SCORE to complete construction of the jail without further delay.