

PORT OF SEATTLE
MEMORANDUM

COMMISSION AGENDA

Item No. 5a

Date of Meeting October 5, 2010

DATE: September 22, 2010

TO: Tay Yoshitani, Chief Executive Officer

FROM: Michael Burke, Senior Manager, Container Leasing and Operations
Mike Kriston, Seaport Real Estate Specialist
George Blomberg, Senior Environmental Program Manager

SUBJECT: Three Perpetual Nonexclusive Easements Related to the Vacation of Submerged South Forest Street

ACTION REQUESTED:

Request Commission authorization for the Chief Executive Officer to execute a Bulkhead Panel and Retaining Wall Maintenance Easement, a Public Access Easement, and a Storm Water Drainage Facilities Easement, to the City of Seattle to meet certain conditions imposed by the City of Seattle for the vacation of submerged South Forest Street.

SYNOPSIS:

Background:

The Port has petitions pending with the City of Seattle ("City") seeking to vacate various streets at Terminal 5, various streets at Terminal 18, Idaho and Dakota Streets and a portion of Iowa Avenue at the Port's former Terminal 105, South Forest Street at Terminal 25 and a portion of Alaskan Way South at Terminal 30. Over the next several months Port staff will seek Commission approval to execute easement documents required by the City for the vacation of these streets. This memo requests Commission authorization for the Chief Executive to execute easements needed for the vacation of South Forest Street at Terminal 25.

On October 25th, 2005, the Commission approved a project request to construct improvements at Terminals 25 and 30 designed to increase the efficiency of marine cargo operations at this site, to file a petition with the City for the vacation of submerged South Forest Street (Forest Street), and to construct public shoreline access improvements at South Portland Street and Eighth Avenue South in anticipation of the City vacating Forest Street for the benefit of the Port. The pending vacation of Forest Street by the City has allowed the Port to construct a piling supported bridge connecting cargo operations at Terminals 25 and 30.

The City provided conditional approval of the Port's request for vacation of Forest Street on May 14, 2007. Before passing a final ordinance to vacate Forest Street, the City is requiring the Port,

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among other things, to execute the Bulkhead Panel and Retaining Wall Maintenance Easement (Bulkhead Easement), the Public Access Easement, and the Storm Water Drainage Facilities Easement (Drainage Easement).

Bulkhead Easement:

The purpose of the Bulkhead Easement is to provide the City with access to Slip 27 and adjacent Port property at Pier 27 for the purpose of maintaining the City-owned bulkhead panel and retaining wall at the west margin of East Marginal Way South after the vacation of Forest Street.

Public Access Easement:

As part of the proposed vacation of Forest Street, the Port is also required to provide an alternative site for use by the public as compensation for the loss of public access to shoreline area at Forest Street. The Public Access Plan for the Duwamish Waterway, approved by the City and the Port in 1985, anticipated the potential for vacation of Forest Street. The Port used the 1985 public access plan as a guide in developing public shoreline use improvements in South Park, consisting of 13,275 square feet of Port owned uplands, 345 linear feet of Duwamish Waterway shoreline, and approximately 3,725 square feet of public right-of-way. Execution of the Public Access Easement ensures that the City and the public will have the right to use this site for access to the shoreline and associated improvements.

Drainage Easement:

The purpose of the Drainage Easement is to provide the City, which now owns and operates a municipal drainage system in East Marginal Way South, with the right to construct in the future a storm water drainage outfall and other necessary and convenient appurtenances or facilities (Storm Water Facilities) at the point where East Marginal Way South meets the submerged Forest Street area.

The Drainage Easement includes language wherein the Port acknowledges that it has represented to the City that it has no plans to fill or develop the submerged portion of Forest Street so that the Storm Water Facilities can properly function as an outfall into a waterway and that it has entered into agreements with other parties that prevent the Port from filling or developing the submerged portion of Forest Street. The Drainage Easement also states that in the event those agreements are no longer valid, or for any other reason the Port is allowed to fill or develop the submerged portion of Forest Street, the Port will promptly grant and record an amended easement to extend the Storm Water Facilities to an available waterway and pay the City for the cost to extend the Storm Water Facilities.

In addition, the Port will provide an environmental indemnity to the City arising out of or in connection with the disposal, release or discharge, migration, handling, or transportation of

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hazardous materials or substances from any portion of the Port's property including the easement area.

These easements were reviewed and approved by the Port's legal counsel.

OTHER DOCUMENTS ASSOCIATED WITH THIS REQUEST:

- **ATTACHMENT A:** East Marginal Way South—Bulkhead Panel and Retaining Wall Maintenance Easement at Slip 27 and Terminal 25 – Seattle Department of Transportation
- **ATTACHMENT B:** South Park Public Shoreline Access Site—Public Access Easement (Eighth Avenue South and South Portland Street)
- **ATTACHMENT C:** Storm Water Drainage Facilities Easement

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS:

- February 9th, 2010—Staff briefed the Commission on background and status of street vacations at various facilities.
- October 25th, 2005—Commission approved improvements at Terminals 25 and 30, including vacation of South Forest Street.