

PORT OF SEATTLE
MEMORANDUM

COMMISSION AGENDA

Item No. 5f

Date of Meeting December 7, 2010

DATE: November 29, 2010

TO: Tay Yoshitani, Chief Executive Officer

FROM: Paul M. Bintinger, Senior Port Counsel
Peggy McPartland, Claims Manager

SUBJECT: Approval of a Settlement Agreement with Terry Miller related to personal injuries suffered while constructing portions of the baggage handling system at Seattle-Tacoma International Airport.

Amount of This Request: \$0 (pre-funded deductible)

Total Value of the Settlement: \$1,250,000

ACTION REQUESTED:

Request approval for the Chief Executive Officer to execute a settlement agreement with Terry Miller related to personal injuries suffered in the course of construction at Seattle-Tacoma International Airport.

BACKGROUND:

Terry Miller (“Miller”) was seriously injured while involved in the construction of the C60 baggage handling system at the Seattle-Tacoma International Airport. Mr. Miller was employed by G&T Conveyor Company (G&T) as a millwright. G&T had been awarded a major construction contract by the Port for the work on the C60 baggage handling system.

On December 20, 2005, Mr. Miller struck his head and jammed his neck on an overhead obstruction while climbing a ladder. As a result of his injuries, Mr. Miller has undergone multiple surgeries on his neck. He has not returned to work since the first surgery in 2007 and is, as a result of his injuries, surgeries and continuing symptoms, not capable of working again.

The Port and its construction management team – many of whose members were employed by Parsons Transportation Group (“Parsons”) – identified the location for the ladder on which Mr. Miller was injured. The ladder was installed by Port Construction Services. In a lawsuit commenced in late 2008, Mr. Miller contends that the injuries he suffered were a direct result of

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Tay Yoshitani, Chief Executive Officer

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the negligence of both the Port and Parsons in the location and construction of the ladder. The legal action was tendered to the Port's owner-controlled insurance program carrier. The law firm of Johnson Andrews & Skinner, P.S. was assigned to defend both the Port and Parsons.

Trial was scheduled to commence November 1, 2010. In an effort to resolve the matter, the parties agreed to participate in a mediation before John Cooper of the Washington Arbitration and Mediation Service in Seattle, Washington on October 26, 2010.

At mediation, the parties reached an agreement to settle the dispute for \$1,250,000. A copy of the Memorandum of Settlement is attached. The claim is covered by the Port's owner-controlled insurance program, and the settlement has been approved by the Port's owner-controlled insurance program carrier. In early 2000 in an effort to control costs and streamline the handling of claims, the Port purchased general liability, professional liability and contractors pollution liability policies of insurance covering the Port and its contractors and consultants working on the original \$2.6 billion Airport Capital Improvement/Modernization Program. This program of insurance – known as an owner-controlled insurance program – generally covered liability claims arising out of the capital construction program at the airport between 2001 and 2008.

Both the firm of Johnson Andrews & Skinner and the Port's in-house counsel recommend the settlement as reasonable and justified. Under the terms of the Port's owner-controlled insurance program, the Port is responsible for a \$250,000 deductible in connection with this claim, but that deductible obligation was fully pre-funded at the commencement of the owner-controlled insurance program. Thus, no new funding is required in connection with this settlement.