

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

**COMMISSION AGENDA**

Item No. 5b

Date of Meeting May 3, 2011

**DATE:** April 25, 2011

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

**FROM:** Michael Burke, Senior Manager, Container Leasing and Operations *MGB*

**SUBJECT:** Terminal 18 Public Access Easement Agreement between the Port of Seattle and the City of Seattle

**ACTION REQUESTED:**

Request Commission authorization for the Chief Executive Officer to execute a Public Access Easement Agreement with the City of Seattle ("City"), which is needed to partially meet conditions imposed by the City for the vacation of streets on Harbor Island related to the expansion of Terminal 18.

**SYNOPSIS:**

Port staff is in the process of finalizing a number of pending street vacations with the City of Seattle dating from terminal developments in the 1990s. Petitions are pending with the City to vacate various streets at Terminal 5, Terminal 18, the Port's former Terminal 105, and Terminal 25. Additionally, public shoreline access issues need to be resolved at Terminal 108. This memo requests Commission authorization for the CEO to execute a public access easement, which is one of the needed agreements to vacate streets at Terminal 18. By granting this easement, the Port retains ownership of valuable industrial property and will avoid the costs of future street vacations if the easement areas are needed for future expansion or reconfiguration of Terminal 18. In the coming months, Port staff expects to return to the Commission to seek approval of 10 to 15 additional street vacation related agreements.

**T-18 PUBLIC ACCESS EASEMENT AGREEMENT:**

The Terminal 18 Public Access Easement is a nonexclusive permanent easement agreement between the Port and the City that will provide the City and the general public access to and across portions of Port-owned property on Harbor Island at two separate locations for the purpose of improving vehicular access to and from public streets. By granting the easement the Port retains ownership of valuable industrial property and will avoid the costs of future street vacations if the easement areas are needed for future expansion or reconfiguration of Terminal 18.

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The first location is known as the “South Loop Road Easement Area” (see attached map). The South Loop Road easement area contains approximately 14,091 square feet, and is a paved and curbed one-way roadway. It is located north of Spokane Street between the south portion of unvacated 13<sup>th</sup> Avenue Southwest and the south portion of unvacated 11<sup>th</sup> Avenue Southwest. The South Loop Road was initially created to provide access to four private property owners (“South End Properties”) that lie adjacent to the south end of Terminal 18. Access to the South End Properties was compromised by the Port’s proposed vacation of the north portions of 13<sup>th</sup> Avenue Southwest, 11<sup>th</sup> Avenue Southwest, and Hanford and Lander Streets. Previously, the Port granted easements to the South End Property owners to use the South Loop Road as a means to ingress and egress their properties. The proposed easement provides the general public and the City the right to use the South Loop Road as well.

The second area is known as the “11<sup>th</sup> Ave Turn Around Easement Area” (see attached map). Vacation of southern portion of 11<sup>th</sup> Avenue Southwest created a dead-end for the northern portion of 11<sup>th</sup> Avenue Southwest, and hence a need for a turnaround area for public and emergency vehicles. The easement area contains approximately 11,383 square feet.

Both the South Loop Road and the 11<sup>th</sup> Ave Turnaround are located within the boundaries of the Harbor Island Soil and Groundwater Operable Unit (HIS&GOU) Superfund Site. As such, they are subject to the terms of the HIS&GOU Consent Decree, that require the Port to provide notice of the proposed easement to the Environmental Protection Agency, and also to notify the City of the existence of the Consent Decree. The Port has complied with these requirements.

The Public Access Easement Agreement includes only such rights as shall be necessary to provide surface rights for general public access, including vehicles of the general public, and to provide access for City vehicles and equipment to reach various utility and other easement areas of the City. Allowing public access on Port property exposes the Port to increased risk due to the public presence on Port’s land. However, the risks are typical of other Port-owned and publicly accessible facilities.

## **LEGAL REVIEW AND APPROVAL**

The Public Access Easement was reviewed and approved as to form by the Port’s legal counsel.

## **DOCUMENTS ASSOCIATED WITH THIS REQUEST:**

- Public Access Easement Agreement with Exhibits A and B
- Map Showing Locations of Public Access Easement on Harbor Island

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

- February 9, 2010 – Staff briefed the Commission on background and status of street vacations at various facilities.
- June 1, 2010 – Commission authorized Chief Executive to execute consultant services contracts or service directives, to advertise and award small works contracts, and to employ Port staff for a total of up to \$1,500,000 for street vacations at Terminals 5, 18 and 105.
- October 5, 2010 – Commission authorized Chief Executive to execute three perpetual nonexclusive easements with the City of Seattle to meet certain conditions imposed by the City of Seattle for the vacation of submerged South Forest Street at Terminal 25.