

PORT OF SEATTLE
MEMORANDUM

COMMISSION AGENDA
ACTION ITEM

Item No.	6a
Date of Meeting	August 9, 2011

CORRECTED COPY –August 5, 2011

DATE: August 3, 2011

TO: Tay Yoshitani, Chief Executive Officer

FROM: Michael Burke, Director, Seaport Leasing and Asset Management

SUBJECT: Fifth Amendment to Terminal 18 Lease, Second Amendment to Terminal 18 Crane Agreement, and First Amendment to Supplemental Crane Agreement in connection with SSA Containers, Inc., and SSA Terminals, LLC, Terminal 18 Lease.

ACTION REQUESTED:

Request Commission authorization for the Chief Executive Officer to execute the following amendments substantially as drafted: (1) Fifth Amendment to the Terminal 18 lease between the Port of Seattle, SSA Containers, Inc., and SSA Terminals, LLC; (2) Second Amendment to the Terminal 18 Crane Agreement between the Port of Seattle, SSA Containers, Inc., and SSA Terminals, LLC; and (3) First Amendment to Supplemental Crane Agreement between the Port of Seattle, The Bank of New York Mellon, as the Bond Trustee, and the National Public Finance Guarantee Corp., as the Bond Insurer.

SYNOPSIS:

The Port is proposing two amendments to the leases in effect between the Port and SSA Containers, Inc. (“SSA”) and SSA Terminals, LLC (“SSAT”) (“SSA” together with “SSAT,” hereinafter called “SSAT”) at Terminal 18 (T-18), and First Amendment to Supplemental Crane Agreement between the Port of Seattle, The Bank of New York Mellon, as Trustee, and the National Public Finance Guarantee Corp., as the Bond Insurer. The two amendments with SSAT reflect the changing nature of the container business, especially the upsizing of vessels calling at T-18. In the highly competitive terminal business, these amendments will also create an incentive to retain and increase container volume at T-18 by waiving the intermodal lift fee for five years. The Port also benefits from these amendments by not being required to purchase new, or replace existing, Port-owned cranes with our limited capital.

The Port will waive intermodal lift revenue for five years with these amendments. Intermodal fees for 2011 are forecasted to be \$330,000. The proposed Terminal 18 lease amendment and crane amendment do not require any funding and are essentially revenue neutral. However, these proposed amendments include waivers of fees/rents owed to the

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Port. The estimated \$5,314,000 net present value loss of revenue to the Port from waiver of intermodal fees and reduction in guaranteed minimum crane rent is balanced out by the long-term benefit of not having to replace cranes at Terminal 18, which has an estimated net present value loss of \$5,546,000.

Subject to Port Commission approval, the Port of Seattle and SSAT have agreed to two proposed amendments to the Terminal 18 Lease and the Terminal 18 Crane Agreement. In concurrence with amending the Terminal 18 Crane Agreement, the Port is required to amend the Supplemental Crane Agreement.

The proposed amendments with SSAT serve three purposes:

- **Provide additional tools to retain current and recruit new container business.** By waiving the on-dock lift fee and some volume guarantees, the Port is supporting efforts to recruit new business to Terminal 18. In addition, these amendments facilitate getting larger, more efficient, container cranes to Terminal 18 to enable that facility to efficiently handle the larger ships that the current customers of that terminal plan to bring to the Pacific Northwest in the near future. The industry trend is clearly to upsize the vessels in the transpacific trade, and the Port needs to be able to handle ships in the 10,000 to 12,000 twenty-foot-equivalent-unit (TEU) size. These larger cranes will help retain the current customers of the Port and make the Port more competitive for additional business.
- **Relieve the Port of current obligations for crane purchase, including costs for latent design flaws.** Under the current lease terms, the Port is obligated to replace existing container cranes around 2017/2018 or provide additional ones at the customer's request due to high volumes. This is a significant financial obligation for the Port and allows the Port to use its own funds for other high-priority projects without diverting scarce capital resources. In exchange for the consideration listed above, SSAT waives the crane requirement and agrees to purchase cranes necessary for its operations. As owners of the cranes, SSAT will be able to respond to market forces more quickly and be responsible for repair of any design flaws that may become apparent. This is also consistent with the long-term trend of the Port's getting out of the crane business and terminal operators purchasing their own cranes.
- **Resolve questions regarding interest accrued from a proposed cash deposit for lease security.** SSAT provided a cash deposit in lieu of bonds for most of its lease security requirement at Terminal 18. The proposed amendment clarifies that interest accrued from this deposit will be held in trust by the Bank of New York Mellon ("Bond Trustee") for the benefit of SSAT and will be used to meet future surety requirements needed for the lease deposit as the rent increases.

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BACKGROUND:

In the late 1990s, the Port expanded Terminal 18 by over 90 acres and made other improvements. The expansion was funded in part by project-specific bonds guaranteed by terminal revenues, and SSAT agreed with the alternative financing model. The bonds are insured by the National Public Finance Guarantee Corporation (“Bond Insurer”), formerly known as MBIA Insurance Corporation. Because of this arrangement, any amendments to certain documents, including the lease and the crane agreement, cannot take effect without the Bond Insurer’s consent.

Under the structure required by the bond financing on the Terminal 18 project, the Port leased Terminal 18 to the Bond Trustee, currently the Bank of New York Mellon, formerly Chase Manhattan Bank, (“Bond Trustee”) under a base lease agreement. The Bond Trustee subleased the terminal back to the Port under a leaseback agreement and the Port sub-subleased the terminal to SSAT under the Terminal 18 lease. This structure allows the Port the option (not the obligation) to cure a default, should one occur, and retain control of the facility.

As noted above, although purchasing cranes has previously been a positive financial investment for the Port, cranes are becoming obsolete faster because of upsizing of container ships. Cranes require a significant upfront cash investment and the shorter life spans make recovering that investment more difficult. For these and other reasons, ports on the west coast have not been investing in cranes in recent years. SSAT already has the right, through the Crane Agreement, to bring their own cranes onto the Terminal, as long as the cranes do not overload the capacity of the dock. SSAT has ordered six new cranes for Terminal 18. This makes it unlikely SSAT will use any Port cranes beyond any minimum guarantee, and that makes it unlikely the Port will adequately recover its investment in any newly purchased cranes. See *Attachment A*, which shows the usage pattern of Port-owned cranes and the impact of tenant-owned cranes on the same terminal.

The newer generation of container vessels, with 12,000 TEU capacity and greater, need cranes that can reach farther and higher than the Port’s largest cranes can handle. With larger capacity cranes, Terminal 18 will have a market advantage for bringing in additional volume from the carriers such as Maersk, CMA-CGM and MSC, who have made significant commitments to these larger vessels.

As allowed in the existing agreements, SSAT is bringing on six new container cranes to Terminal 18 with this expanded capacity. The first of these cranes is expected to arrive in Seattle by the end of the year. SSAT believes the addition of these new cranes is necessary to meet the operational demands of the current customer mix at Terminal 18.

SSAT believes it can purchase cranes more cost-effectively than using cranes purchased by the Port. The approximate cost of the kind of cranes that SSAT is purchasing is in the

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range of \$9 to 10 million per crane. SSAT should be able to purchase the cranes at a lower cost and faster than the Port because of its market leverage and because it does not need to factor in overhead required to manage a public bid contract. Port staff estimates these savings are at least 10% of the initial cost of the crane. SSAT has responsibility for maintenance and operational costs for cranes whether it or the Port owns the cranes, but, as the owner of the cranes, SSAT also bears the risk of latent design defect costs, such as those the Port has incurred with Port cranes at Terminal 46.

By purchasing its own cranes, SSAT relieves the Port of a major financial obligation and allows the Port to use its funds for other high-priority projects without diverting scarce capital resources. With SSAT bringing their own cranes to the terminal, future use of Port-owned cranes is expected to be at the minimum guarantee levels of the lease, not generating enough return to justify the cost to purchase new cranes.

The waiving of the Port's share of the on-dock intermodal lift fee, currently at \$11.60 per lift, will help draw additional business to the Port. This proposed lease amendment will waive the fee for five years and will be applicable to any volume beyond a tenant's minimum guarantee. SSAT does not have a minimum guarantee at Terminal 18.

Waiving SSAT's crane-rent-minimum guarantee if annual volumes fall below 250,000 lifts at Terminal 18 helps protect SSAT if business leaves the terminal and helps SSAT justify the risk of purchasing cranes. If volumes fell to this level, SSAT would still pay crane rent for the volume handled by Port-owned cranes on the terminal, but they would not be billed for any shortfall between actual usage and the minimum annual guarantee. It is also likely that when volume levels are below 250,000 lifts per year, there would be no intermodal usage.

Because of the alternative financing used to fund the Terminal 18 expansion, SSAT has had difficulty obtaining a lease bond or letter of credit that complies with the enhanced requirements in the lease. The current lease does not specify which party would get any interest accumulated from a cash deposit. The proposed lease amendment clarifies that the interest or earnings from SSAT's cash deposits would accrue to SSAT's benefit and be held by the Bond Trustee to be applied toward future increases in the lease security requirement.

Due to the Most Favored Nations clause in the Terminal 5 lease, the Port must offer Eagle Marine Services Ltd. ("Eagle Marine") a similar incentive on intermodal lift fees, after Eagle Marine meets its minimum guarantee, currently at 51,266 lifts per year. This incentive would only be for the same five-year period and only to the extent that SSAT uses the Terminal 18 on-dock facility and therefore benefits from the waiver of the intermodal fee in a given year. The Terminal 5 lease would need to be modified based on the outcome of negotiations with Eagle Marine and would also include consideration that matches the cost of the loss of revenue to the Port as SSAT has done at Terminal 18. However, Commission approval of the proposed amendments with SSAT will set part of

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this incentive in place with Terminal 5 as well. Since Terminal 30 and Terminal 46 do not have an on-dock intermodal loading yard, the Port has no obligation to offer a similar incentive to those terminal operators.

The proposed Fifth Amendment to Terminal 18 Lease and Second Amendment to Crane Agreement will not take effect until it has been reviewed and approved by the Credit Facility Issuer, the Bond Insurer, as required by the Terminal 18 Lease. The proposed First Amendment to the Supplemental Crane Agreement will require Bond Trustee and Bond Insurer approval.

MAJOR ELEMENTS OF THE PROPOSED AMENDMENTS:

The major elements of the proposed amendments are as follows:

1) Fifth Amendment to the Terminal 18 Lease

- a. Modify Section 4.2, Basic Land Improvements Rent; Intermodal Yard (IY) Facilities Rent and IY Facility Charges, subsection (g), of the Terminal 18 lease where the Port will forgo its portion of the Intermodal Yard Facility Charges for a period of five (5) years, effective January 1, 2011.
- b. Modify Section 4.7, Security of Rent Payments, of the Terminal 18 Lease to allow the Port to provide accumulated interest income, if any, in the event SSAT provides a cash security deposit in place of a letter of credit or a surety bond.

2) Second Amendment to the Terminal 18 Crane Agreement

- a. Modify Section 5 of the Crane Agreement to relieve the Port of the future capital commitments of replacing Port-owned cranes on Terminal 18. Currently, the Port is potentially obligated to provide additional cranes at Terminal 18 if crane use equals or exceeds 2,000 hours per crane per year and to provide three functional cranes of similar capacity to the MHI cranes on site.
- b. Modify Section 6 of the Crane Agreement to provide for adjustments relating to crane minimum hours, where SSAT is relieved of the crane minimum annual guarantee rental charge if the Terminal 18 container volumes fall below 250,000 lifts per calendar year.
- c. This Second Amendment also maintains the requirement of the first amendment for SSAT to bring three new cranes to Terminal 18, replacing the Port's 50-foot gauge IHI cranes.
- d. SSAT also has the option to bring three additional cranes (Phase II cranes) to the terminal. If SSAT brings Phase II cranes onto the terminal, then the Port's three

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100-gauge MHI cranes will have no minimum annual guarantee beyond 2015. In addition, SSAT can request the Port to remove the MHI cranes from the terminal within 24 months of installation of the additional three Phase II cranes, but not before December 31, 2018.

3) First Amendment to Terminal 18 Supplemental Crane Agreement

- a. Modify Section 2.1 with respect to the replacement and removal of cranes and by adding subsection “a” noting the parties agree to the terms in the Crane Agreement as amended by the Second Amendment.

Copies of the proposed amendments are attached to this Commission memo.

FINANCIAL IMPLICATIONS:

Source of Funds

The proposed Terminal 18 lease amendment and crane amendment do not require any funding and are essentially revenue neutral. However, these proposed amendments include waivers of fees/rents owed to the Port.

The estimated \$5,314,000 net present value loss of revenue to the Port from waiver of intermodal fees and reduction in guaranteed minimum crane rent is balanced out by the long-term benefit of not having to replace cranes at Terminal 18, which has an estimated net present value loss of \$5,546,000.

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Financial Analysis Summary

CIP Category	N/A
Project Type	N/A
Risk adjusted Discount rate	7.5% (for guaranteed minimum crane rent)
Key risk factors	<ul style="list-style-type: none">• Amendment to the Terminal 18 lease is subject to approval by the Bond Insurer, per the terms of the special facility financing for the Terminal 18 expansion.• The proposed intermodal fee waiver and modification to minimum annual crane rent may not provide enough incentive in the current economic climate to retain current customers or significantly increase cargo volumes at Terminal 18.• Intermodal usage levels will vary based on annual cargo volumes and the needs of specific shipping customers calling at Terminal 18. Accordingly, the estimated reduction in revenue from intermodal fees is uncertain. The cumulative revenue reduction from the waiver of intermodal fees over the 5-year period could range from zero to \$6,500,000 for Terminal 18 and zero to \$3,100,000 for Terminal 5 depending on the number of trains each intermodal facility generates per week.• The useful life of the existing Port-owned MHI cranes is assumed to be 20 years, which means they should remain operationally viable until 2017/2018. However, there is a risk of early obsolescence if ship sizes calling at Terminal 18 increase and the MHI cranes are unable to service the height or breadth of containers carried on the larger vessels.• Even if the MHI cranes remain operationally viable until 2017/2018, if SSA installs the second set of (3) cranes (Phase II cranes) at Terminal 18, under the terms of the proposed amendment to the Crane Agreement, the guaranteed annual minimum crane rent on the MHI cranes would end on 12/31/2015.
Project cost for analysis	N/A
Business Unit (BU)	Container Operations

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Effect on business performance

Comparison of Effect on Business Performance for Action Alternatives:

Financial analysis performed for the alternatives below included assumptions on crane usage and intermodal usage, as well as annual rate increases for intermodal fees and estimated annual increases in the tariff crane rate per hour. The estimated cash flows from the various alternatives have been discounted to current dollar equivalents, and are presented at net present value (NPV).

- Usage levels for Port-owned cranes will vary depending on TEU volumes and the availability of tenant-owned cranes on the same terminal. Guaranteed minimum crane rent is limited to 1,250 crane hours/per crane/per year. Usage of Port-owned cranes above the guaranteed minimum level is at the tenant’s discretion and is unlikely if the tenant has their own cranes on site.
- Intermodal usage levels will vary based on annual cargo volumes and the needs of specific shipping customers calling at Terminal 18. There is no minimum annual usage guarantee for intermodal fees at Terminal 18.

The financial return on investment in new Port-owned cranes for Terminal 18 is not viable for several reasons.

- When a terminal has a combination of Port-owned and tenant-owned cranes available for use, usage of the Port-owned cranes is not likely to exceed the annual guaranteed minimum - as occurred in 2007/2008 when SSA had (4) tenant-owned cranes in use on Terminal 18.
- The current SSA agreements allow SSA to purchase and install their own cranes on the terminal. SSA currently has one SSA-owned crane on Terminal 18 and has purchased six more cranes with the intention of installing them on Terminal 18 within the next year.
- The expected return on investment to the Port for new cranes at Terminal 18 is unfavorable. In both near term and longer term forecasting, the NPV is negative for investing in new Port-owned cranes at Terminal 18 due to the combination of Port-owned and SSA-owned cranes on the terminal. The unfavorable return is the result of the significant increase in the purchase price of cranes (~\$10.0 million each), while minimum annual guaranteed crane usage has remained fixed at 1,250 crane hours per crane/per year.

A summary of the key components of the Commission Memo alternatives is shown below and is discounted to reflect Net Present Value in today’s dollars.

Estimated NPV of Alternatives (in \$000's)	Alternative 1	Alternative 2 **	Alternative 3
Description of alternative	Do not amend agreements. Port buys cranes when MHI cranes need to be replaced.	Do not amend agreements. Port buys (3) additional cranes now.	Amend agreements. Port no longer obligated to replace MHI cranes.
Investment in New Port-owned Cranes	(\$5,546)	(\$8,009)	
Reduction in Minimum Guaranteed Crane Rent			(\$3,096)
Estimated Reduction in Intermodal Fee Revenue			(\$2,217)
NPV - Cumulative Impact	(\$5,546)	(\$8,009)	(\$5,314)
	Not Recommended	Not Recommended	Recommended Action

Note **: Alternative 2 may not be allowed under the terms of the current agreements.

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<p>Effect on business performance</p>	<p><u>Waiver of Crane Rent Minimum Annual Guarantee on MHI cranes if SSA installs (3) Phase II cranes</u></p> <p>Under the proposed amendment to the Terminal 18 Crane Agreement, if SSAT installs Phase II cranes at Terminal 18 (for a total of six new SSA-owned cranes), the minimum annual guarantee on Port-owned MHI cranes would end on 12/31/2015.</p> <p>SSAT can request the Port to remove the MHI cranes from the terminal after installation of the Phase II cranes; however the minimum annual guaranteed crane rent would still be payable through 2015. If SSA does request the MHI cranes be removed from the terminal, that removal would not occur before 12/31/2018, and SSA would pay full tariff for any Port-owned crane hours used after the annual minimum guarantee ends on 12/31/2015. If SSA does not request the Port-owned MHI cranes be removed from the terminal, SSA would again pay full tariff for any Port-owned crane hours used after 12/31/2015.</p> <p>Currently the useful life of the existing Port-owned MHI cranes is assumed to be 20 years, with a remaining expected useful life for the existing MHI cranes until 2017/2018. The potential reduction in revenue from the waiver of minimum annual guaranteed crane rent effective 12/31/2015 is shown below.</p> <table border="1" data-bbox="422 924 1485 997"> <thead> <tr> <th>Potential Reduced Revenue (in \$000's)</th> <th>NPV</th> <th>2016</th> <th>2017</th> <th>2018</th> <th>TOTAL</th> </tr> </thead> <tbody> <tr> <td>Minimum Annual Guaranteed Crane Rent</td> <td>(\$3,096)</td> <td>(\$1,970)</td> <td>(\$2,019)</td> <td>(\$690)</td> <td>(\$4,679)</td> </tr> </tbody> </table>	Potential Reduced Revenue (in \$000's)	NPV	2016	2017	2018	TOTAL	Minimum Annual Guaranteed Crane Rent	(\$3,096)	(\$1,970)	(\$2,019)	(\$690)	(\$4,679)																																																				
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<p>Effect on business performance</p>	<p><u>Intermodal Fee Waiver</u></p> <p>The Terminal 18 lease does not have a minimum annual guarantee for the intermodal facility – usage of Terminal 18 on-dock intermodal is discretionary. The Terminal 18 intermodal facility was not used in years 2002 – 2008. The intermodal facility was placed back in service by the tenant in 2009, and is currently handling an average of 2 trains per week, each requiring an average of 290 intermodal lifts. The estimated reduction in revenue from the proposed 5-yr waiver of intermodal fees is shown below.</p> <p>TERMINAL 18 Most Likely Estimate of Terminal 18 Future Intermodal Usage</p> <table border="1" data-bbox="422 1323 1550 1417"> <thead> <tr> <th>Potential Reduced Revenue (in \$000's)</th> <th>NPV</th> <th>2011</th> <th>2012</th> <th>2013</th> <th>2014</th> <th>2015</th> <th>TOTAL</th> </tr> </thead> <tbody> <tr> <td>Estimated Intermodal Fees Waived</td> <td>(\$2,217)</td> <td>(\$350)</td> <td>(\$360)</td> <td>(\$556)</td> <td>(\$573)</td> <td>(\$787)</td> <td>(\$2,627)</td> </tr> <tr> <td>Estimated Number of Trains per week</td> <td></td> <td>2 trains</td> <td>2 trains</td> <td>3 trains</td> <td>3 trains</td> <td>4 trains</td> <td></td> </tr> </tbody> </table> <p>Intermodal usage during the proposed 5-year fee waiver period could be higher or lower than the estimate shown above. Revenue impact at various intermodal usage levels is shown below.</p> <p>TERMINAL 18 Intermodal Revenue at various usage levels</p> <table border="1" data-bbox="422 1627 1550 1795"> <thead> <tr> <th>Potential Reduced Revenue (in \$000's)</th> <th>NPV</th> <th>2011</th> <th>2012</th> <th>2013</th> <th>2014</th> <th>2015</th> <th>TOTAL</th> </tr> </thead> <tbody> <tr> <td>No intermodal usage</td> <td>\$0</td> <td></td> <td></td> <td></td> <td></td> <td></td> <td></td> </tr> <tr> <td>Current Usage (2 trains per week)</td> <td>(\$1,608)</td> <td>(\$350)</td> <td>(\$360)</td> <td>(\$371)</td> <td>(\$382)</td> <td>(\$394)</td> <td>(\$1,857)</td> </tr> <tr> <td>Potential Growth (4 trains per week)</td> <td>(\$3,216)</td> <td>(\$700)</td> <td>(\$720)</td> <td>(\$742)</td> <td>(\$764)</td> <td>(\$787)</td> <td>(\$3,713)</td> </tr> <tr> <td>Maximum Capacity (7 trains per week)</td> <td>(\$5,629)</td> <td>(\$1,224)</td> <td>(\$1,260)</td> <td>(\$1,298)</td> <td>(\$1,337)</td> <td>(\$1,378)</td> <td>(\$6,498)</td> </tr> </tbody> </table>	Potential Reduced Revenue (in \$000's)	NPV	2011	2012	2013	2014	2015	TOTAL	Estimated Intermodal Fees Waived	(\$2,217)	(\$350)	(\$360)	(\$556)	(\$573)	(\$787)	(\$2,627)	Estimated Number of Trains per week		2 trains	2 trains	3 trains	3 trains	4 trains		Potential Reduced Revenue (in \$000's)	NPV	2011	2012	2013	2014	2015	TOTAL	No intermodal usage	\$0							Current Usage (2 trains per week)	(\$1,608)	(\$350)	(\$360)	(\$371)	(\$382)	(\$394)	(\$1,857)	Potential Growth (4 trains per week)	(\$3,216)	(\$700)	(\$720)	(\$742)	(\$764)	(\$787)	(\$3,713)	Maximum Capacity (7 trains per week)	(\$5,629)	(\$1,224)	(\$1,260)	(\$1,298)	(\$1,337)	(\$1,378)	(\$6,498)
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Terminal 18 previously received a waiver of intermodal fees under the 2009/2010 Customer Support Plan. Actual intermodal usage and intermodal fees waived under that 12-month program are also show below.

Historical T-18 Intermodal Usage	2009	2010	TOTAL
Actual Intermodal Lifts	11,405	34,450	45,855
Intermodal Fee - per lift	\$11.04	\$11.31	
Actual Reduction in Intermodal Revenue (in \$000's)	2009	2010	TOTAL
T-18 Intermodal Revenue - before fee waiver	\$126	\$390	\$516
less IY Fee Waiver (2009/2010 Customer Support Plan)	(\$42)	(\$330)	(\$372)
T-18 Intermodal Revenue - after fee waiver	\$84	\$60	\$144

Under the proposed amendments, Terminal 5 would be eligible to receive a waiver of intermodal fees in the same 5-year period, due to the Most Favored Nations clause in the Terminal 5 lease. Terminal 5 has a minimum annual intermodal usage requirement of 51,266 paid lifts per year. The estimated intermodal fee waiver shown below is based on estimated usage in excess of the minimum guaranteed usage, and would be limited to the intermodal fee waiver benefit actually received by Terminal 18 in any given year.

TERMINAL 5

Most Likely Estimate of Terminal 5 Future Intermodal Usage

Potential Reduced Revenue (in \$000's)	NPV	2011	2012	2013	2014	2015	TOTAL
Estimated Intermodal Fees Waived	(\$1,184)	(\$260)	(\$266)	(\$273)	(\$280)	(\$287)	(\$1,366)
Estimated Number of Trains per week		5 trains	5 trains	5 trains	5 trains	5 trains	

Effect on business performance

Waiver of Crane Rent Minimum Annual Guarantee if terminal volume is lower than 250,000 lifts in a given year

Under the proposed amendment to the Terminal 18 Crane Agreement, SSAT would be relieved of the minimum annual guarantee crane rent requirement if the Terminal 18 container volumes fell below 250,000 lifts per calendar year. The likelihood of terminal volumes falling below the lift breakpoint is considered relatively low risk. Container volumes have been well in excess of 300,000 lifts per year since the facility opened in 2002, even with the reduction in container volume in 2008/2009. See *Attachment B*, which shows annual lift volumes on Terminal 18 since 2002, relative to the proposed breakpoint of 250,000 lifts per year.

If volumes should fall below 250,000 lifts in a given year, SSAT would still pay crane rent for actual hours of Port-owned cranes used, but would not be billed for any shortfall between actual usage and the minimum annual guaranteed crane hours for that year. The annual minimum crane rent subject to waiver is shown below.

Crane Rent Subject to Waiver

Potential Reduced Revenue (in \$000's)	2011	2012	2013	2014	2015	2016	2017	2018
Minimum Annual Crane Rent	\$1,742	\$1,785	\$1,831	\$1,876	\$1,922	\$1,970	\$2,019	\$690

IRR/NPV

N/A

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ALTERNATIVES CONSIDERED AND THEIR IMPLICATIONS:

- **No Action Alternative:** Do not amend the agreements with SSAT. SSAT currently has the right to purchase and install SSAT-owned cranes on Terminal 18. If additional SSAT-owned cranes are added to the terminal, usage of Port-owned cranes is likely to decrease to the minimum annual guaranteed level – as occurred in 2007 and 2008 when SSA had four (4) SSAT-owned cranes operating on Terminal 18. The Port would continue to collect minimum annual guaranteed crane rent through the remaining useful life of the three (3) Port-owned MHI cranes (estimated to occur around 2017/2018). In addition, the Port would continue to collect intermodal fees to the extent that SSAT chooses to use the Terminal 18 intermodal facility. There is no minimum annual usage requirement for intermodal fees in the Terminal 18 lease.

If SSAT does not install additional tenant-owned cranes on the terminal, the Port will likely have to provide additional container cranes for the terminal, as well as invest in the replacing of existing cranes. The Port may not receive the cash flow from crane rent to justify the investment in new cranes but is still contractually required to purchase new cranes. Additionally, the Port may have to make this investment at a time when its capital capacity is limited. This is not the recommended alternative.

- **Port Purchase of New Cranes:** The alternative of purchasing additional Port-owned cranes now is not clearly allowed by the current provisions of the crane agreement. With SSAT preference to use its own cranes, any new Port-owned cranes, or any replacement of existing Port-owned cranes, will probably generate only minimum revenue and not provide an adequate return on investment to the Port. Port purchase of cranes will also use a significant amount of our limited capital capacity. This is not the recommended alternative.
- **Recommended Action:** Amend the Terminal 18 Lease, Crane, and Supplemental Crane agreements as proposed. This action protects the Port's capital capacity from being used on additional cranes without a sufficient revenue guarantee. The proposed amendments help create more incentive for additional cargo to the Port and resolve the conflict of who gets the benefit of interest earned on a cash deposit for lease security. **This is the recommended alternative.**

OTHER DOCUMENTS ASSOCIATED WITH THIS REQUEST:

- Attachments A – Terminal 18: Average Crane Activity for Port-owned Cranes by year
- Attachment B – Terminal 18: Annual Lifts Compared to Proposed Lift Breakpoint
- Fifth Amendment to Terminal 18 Lease – Draft
- Second Amendment to Terminal 18 Crane Agreement – Draft
- First Amendment to Supplemental Crane Agreement – Draft

COMMISSION AGENDA

Tay Yoshitani, Chief Executive Officer

August 3, 2011

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PREVIOUS COMMISSION ACTIONS OR BRIEFINGS:

- July 26, 2011 – Commission briefing on the Fifth Amendment to the Terminal 18 Lease; Second Amendment to the Terminal 18 Crane Agreement with SSAT; and First Amendment to the Supplemental Crane Agreement between the Port and the Trustee.
- April 14, 2009 – Authorization to execute lease amendments to SSA Terminal 18 lease to incorporate the Customer Support Package and the Port's Clean Air Program.
- April 14, 2009 – Authorization to execute a Second Amendment to the Base Lease, a Second Amendment to Leaseback, and a Second Amendment to the Subordination, Non-Disturbance and Novation Agreement in connection to the Terminal 18 lease.
- April 11, 2006 – Authorization to execute lease amendments with SSAT at Terminal 18.
- February 14, 2006 – Authorization to execute Second Amendment to Terminal 18 lease with SSAT.
- December 13, 2005 – Authorization to execute Second Amendment to the Terminal 18 Lease and First Amendment to the Crane Agreement between the Port of Seattle and SSAT at Terminal 18.
- May 27, 2003 – Authorization to enter into a Memorandum of Understanding and subsequent lease amendment with SSAT to revise priorities and lease commitments for apron and pavement improvements at Terminal 18.
- March 26, 2002 – Authorization to execute documents in the amount of \$244,490.48 reimbursing SSAT for costs incurred in the transfer of crane maintenance responsibilities.
- June 27, 2000 – Authorization to execute (1) First Amendment to SSAT and SSA at Terminal 18; (2) First Amendment to Base Lease; and (3) First Amendment to Leaseback.
- October 21, 1999 – Authorization to execute agreements with SSAT and SSA, or both, for the following: (1) Providing for handling of tax matters at Terminal 18 and, (2) providing for procedures and agreements between the Port and SSA, SSAT, or both, in the event of an ownership change involving SSAT or SSA.