

PORT OF SEATTLE
MEMORANDUM

COMMISSION AGENDA
ACTION ITEM

Item No.	<u>5d</u>
Date of Meeting	<u>July 10, 2012</u>

DATE: June 28, 2012

TO: Tay Yoshitani, Chief Executive Officer

FROM: Craig Watson, General Counsel
Anne Purcell, Senior Port Counsel

SUBJECT: Settlement in the Matter of Lorena Jo Potts, individually and as Personal Representative of the Estate of Donald Lee Potts v. Port of Seattle, et al. King County Superior Court Cause No. 11-2-07966-5.

Amount of This Request: \$475,000.00

Source of Funds: United States Aircraft Insurance Group (USAIG)

ACTION REQUESTED:

Request Commission authorization for the Chief Executive Officer to execute all documents necessary to settle claims filed by Lorena Jo Potts, individually and as Personal Representative of the Estate of Donald Lee Potts ("Potts"). The terms of the compromise and settlement for which approval is requested shall release the Port for all damages claimed in the lawsuit. The claim of \$475,000 will be paid by the Port's insurer, United States Aircraft Insurance Group.

BACKGROUND:

This request for Commission authorization for settlement arises out of the General Counsel's recommendation to settle claims filed by Potts. Potts filed a tort claim against the Port on December 16, 2010, and filed suit in King County Superior Court on April 1, 2011. Potts alleged exposure to asbestos while working as an electrician at Seattle-Tacoma International Airport between 1970 and 1972 under a theory of premises liability. Potts was diagnosed with mesothelioma in November 2010 and died January 13, 2011.

The Port was one of five defendants sued in this matter. Prior to trial, the other defendants settled with plaintiff. The Port and Potts failed to reach agreement at mediation and trial commenced on May 31, 2012.

The Port had tendered this matter to its insurer USAIG in 2010. USAIG eventually accepted the tender, settlement negotiations were resumed, and an agreement reached before trial was completed. The Port was represented by the law firm of Bullivant Houser Bailey in this matter.

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In light of the liability exposure and the likelihood that a judgment rendered in the event of continued litigation would likely be in the amount claimed or higher, and the expenses involved in continued litigation would be unnecessarily high in relation to the amount claimed, the General Counsel certifies that this settlement is warranted in accordance with the provisions of Resolution No. 3605.

ALTERNATIVES CONSIDERED AND THEIR IMPLICATIONS:

Alternatives have been considered as discussed in attorney-client privileged communications.

OTHER DOCUMENTS ASSOCIATED WITH THIS REQUEST:

- None.

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS:

- There were no public briefings related to this request.