

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

**COMMISSION AGENDA**

**Item No.** 6a

**ACTION ITEM**

**Date of Meeting** July 10, 2012

**DATE:** June 18, 2012

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

**FROM:** Bob Duffner, Senior Manager, Aviation Environmental Programs  
Allan Royal, Manager, Real Estate Development

**SUBJECT:** Second Reading and Final Passage of Resolution No. 3664, First Amendment to the 1998 Interlocal Agreement with the City of Auburn

**Amount of This Request:** \$0

**Source of Funds:** Not Applicable

**Est. State and Local Taxes:** Not Applicable

**Est. Construction Jobs Generated:** None

**Total Project Cost:** Not Applicable

**ACTION REQUESTED:**

Request Second Reading and Final Passage of Resolution No. 3664: A Resolution of the Port Commission of the Port of Seattle approving the First Amendment of the Interlocal Agreement between the City of Auburn and the Port of Seattle to transfer approximately 55 acre feet of surplus floodplain storage credit to the City of Auburn and authorizing conveyance of a permanent easement to the City of Auburn. There is no funding associated with this Amendment.

**SYNOPSIS:**

Environmental permits for construction of the Third Runway and other 1997 Master Plan Update projects required the Port construct the 67-acre Auburn Wetland Mitigation Site (Mitigation Site) to mitigate for project-related impacts (Exhibit A). In support of site construction, the Port and the City entered into an interlocal agreement on March 18, 1998, under which the City agreed to consider and act on zoning changes and permits necessary to construct the wetlands. In return, the Port agreed to support the City's infrastructure improvements and make financial contributions.

The 1998 Agreement also stipulated that a portion of the Mitigation Site be lowered in elevation and connected to the Green River 100-year floodplain. The Mitigation Site construction was completed in 2004 at the lower elevation and with the floodplain connection. As a result, the Mitigation Site created approximately 66.2 acre-feet of new flood storage volume capacity.

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In July 2009, the Port was contacted by the City requesting formal recognition of the right to retain and reassign the flood storage capacity for new development. This proposed Amendment acknowledges the Port's right to utilize 17 percent (approximately 11.2 acre-feet) of the flood storage capacity to fill portions of the floodplain on Port-owned property and acknowledges the City's right to control the use of the remaining flood storage capacity in support of development within the North East Auburn Special Planning Area.

### **BACKGROUND:**

Following execution of the 1998 Agreement and before construction of the Mitigation Site, the Port and Auburn identified a number of unresolved items primarily associated with transportation network options within the City's Northeast Auburn Special Planning Area. In addition, the City expressed interest in documenting its desire to control use of the created flood storage capacity. Both parties intended to resolve these issues before construction of the Mitigation Site in an amendment to the Agreement.

In October and November of 2003, letters exchanged between the Port and the City concluded that the terms of the 1998 Agreement would be implemented without amendment in order to avoid a delay to the Port's Mitigation Site construction. The Port's November 13, 2003, letter to Auburn outlined the Port's position on the transportation issues as well as control over the created flood storage capacity as follows:

- The Port would not seek reimbursement for constructing the flood storage capacity created by the Mitigation Site.
- The Port recognized Auburn's intent to control use of and allocate the created flood storage capacity.
- The Port would retain an allocation of the flood storage capacity credit for undeveloped Port-owned property located within the Northeast Auburn Special Planning Area.

The transportation (right-of-way) issues were eventually resolved through a 2007 Real Estate Exchange Agreement and a 2008 Administrative Memorandum of Agreement.

In July 2009, the Port was contacted by City staff requesting formal recognition of the City's right to control use of the flood storage capacity created by the Port's Mitigation Site. Following a review of the Agreement and earlier communications, Port staff confirmed the Port and City's earlier intentions and completed an analysis of an equitable flood storage credit allocation that could benefit an adjacent undeveloped Port-owned property.

#### ***Flood Storage Credit Allocation to the Port***

The Port property subject to potential flood storage capacity credit allocation is a 39-acre parcel that adjoins the Mitigation Site and is located directly south of South 277th Street and approximately 1,500 feet east of Auburn Way North. The Port purchased this property in 2002 to provide construction access to the Mitigation Site. A small portion was also used to construct

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a flood water conveyance channel that connects the Mitigation Site with the Green River floodplain located north of South 277<sup>th</sup> Street. The majority of the property is encumbered with wetlands and associated buffers that limit development. However, the northernmost 4.9 acres of the parcel along South 277<sup>th</sup> Street are considered developable and its value would be enhanced if filled above the 100-year floodplain elevation. Based on available topography, staff determined that approximately 11.2 acre-feet of the fill would be required to bring the 4.9 acre surface above the historic 100-year floodplain elevation of 45 feet. The Port would then need 11.2 acres of flood storage capacity to develop this land, and is thus seeking 11.2 acres of flood storage volume credit allocation for future development.

### ***Value of Flood Storage Credit Available to the City***

Resolution No. 3605, as amended, requires an appraisal for the proposed sale of real property interest. In compliance with this resolution, an attempt was made to appraise the value of the flood storage credit to be made available to the City. The estimated value of the City's 55 acre-feet of credit is \$1,493,680.00 based upon the extrapolation from the appraised value of the credits as applied to the Port property. The appraisal was completed by Christopher S. Eldred, MAI, SR/WA under contract to the Port. The value of the flood storage credit for the 4.9 acres of developable Port property was estimated to be \$285,000. These values are subject to securing additional approvals and resolution of the many issues related to actually utilizing the flood storage credits including:

- The City successfully obtaining approval of a floodplain map adjustment by Federal Emergency Management Agency (FEMA).
- The City identifying sites within this floodplain that are suitable for development.
- Securing permits, including floodplain permits, and associated habitat studies under the Endangered Species Act for placement of fill.

### **PROJECT JUSTIFICATION:**

The Amendment will confirm the Port's previously communicated intent to retain an allocation of the flood storage capacity credit for undeveloped Port property located within the Northeast Auburn Special Planning Area and to recognize the City's right to control use of the remaining credits.

### ***Project Objectives:***

To affirm the Port's right to retain a portion of the flood storage credit and to acknowledge the City of Auburn's right to control use of the balance of the flood storage credit.

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### **PROJECT SCOPE OF WORK AND SCHEDULE:**

#### ***Scope of Work:***

Declare surplus the flood storage capacity.  
Sign the First Amendment to the Agreement.

#### ***Schedule:***

Fully executed agreement by the end of July 2012; requires Port Commission approval. The City is concurrently seeking Auburn City Council approval.

### **FINANCIAL IMPLICATIONS:**

There are no budget or funding issues related to this request.

#### ***Financial Analysis Summary:***

The First Amendment to the Agreement will potentially create a more valuable Port-owned property in Auburn that may be either sold or developed.

The appraisal noted a significant benefit for retaining the portion of flood storage credit for the Port's property, but there are still significant issues to be resolved before a development analysis could be conducted. This is an essential first step in this process.

### **STRATEGIC OBJECTIVES:**

This action will create the potential for development of new business and economic opportunities for the region and the Port.

### **ENVIRONMENTAL SUSTAINABILITY:**

This action is the next step in helping to prepare a site for an environmentally friendly development that will not adversely affect the Port's mitigation site.

### **BUSINESS PLAN OBJECTIVES:**

Memorializing the allocation of the flood storage capacity issues is the first step in creating a site that is marketable for development or sale. It may ultimately create additional non-airline revenue for the Port.

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### **TRIPLE BOTTOM LINE:**

This action will create jobs in construction and on-going business operations and will ensure environmentally compatible development in addition to providing additional revenue to the City of Auburn for their vision of improvements in the city for their citizens.

### **ALTERNATIVES CONSIDERED AND THEIR IMPLICATIONS:**

- Do not enter into the First Amendment to the Agreement. This alternative would hamper the Port's efforts to market or develop the available Auburn property and would hamper the City of Auburn's efforts to develop other properties in their city. This is not the recommended alternative.
- Adopt Resolution No. 3664 and execute the First Amendment to the Agreement. This alternative would allow the Port to continue to work on making this parcel of land developable and would facilitate the City of Auburn's effort to develop other property in the city for the benefit of their citizens. **This is the recommended alternative.**

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

- Resolution No. 3664
- Map Exhibit A
- First Amendment to the Interlocal Agreement
- Original 1998 Interlocal Agreement
- November 13, 2003, letter from the Port to Paul Krauss, City of Auburn Director of Planning and Community Development

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

- First reading of Resolution No. 3259 on January 13, 1998. Second Reading and final passage of on February 10, 1998.
- Interlocal Agreement executed on March 18, 1998, by Commission President.
- First Reading and Public Hearing of Resolution 3664 on June 26, 2012.