

PORT OF SEATTLE
MEMORANDUM

COMMISSION AGENDA
ACTION ITEM

Item No.	<u>4c</u>
Date of Meeting	<u>January 27, 2015</u>

DATE: January 20, 2015
TO: Ted Fick, Chief Executive Officer
FROM: Mark C. Griffin, Director, Real Estate Development
SUBJECT: Restatement and Amendment of the purchase and sale agreement with TRF Pacific, LLC regarding sale of the Tsubota Steel site

ACTION REQUESTED

Request Commission authorization for the Chief Executive Officer to execute a Restated and Amended Purchase and Sale Agreement, substantially as drafted, with TRF Pacific, LLC relating to the proposed sale of the Tsubota Steel site.

SYNOPSIS

The Commission authorized the surplus and sale of the Tsubota Steel site to TRF Pacific, LLC (TRF) at the November 11, 2014 meeting. TRF has requested additional time to complete due diligence and feasibility review of the site. TRF will provide an additional deposit as consideration for the proposed amendment. The other material terms of the agreement remain the same. The agreement requires commission approval of any amendments to the agreement.

BACKGROUND

Staff executed a purchase and sale agreement with TRF to sell the Tsubota Steel site as of November 22, 2014. The Commission authorized surplus and sale of the site at the November 11, 2014 meeting.

The agreement provides for a 30-day due diligence period before TRF must waive the due diligence contingency and proceed with obtaining the Department of Ecology's approval of an environmental clean-up plan for the site. TRF has requested an additional 30 days to complete due diligence and feasibility review specifically related to identifying potential tenants for its anticipated retail development and to explore further options for improving access to the site. TRF will provide an additional deposit of \$10,000 as consideration for the 30-day extension. This additional deposit will be credited towards the purchase price when the transaction closes. The proposed amended agreement also allows TRF to extend the due diligence and feasibility review by two additional 30-day periods with the payment of \$10,000 for each extension. If TRF exercises either of these two extensions, the additional deposits would be non-refundable and not credited toward the purchase price. The other material terms of the agreement remain the same.

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The agreement requires Commission approval of any amendments to the agreement. By its terms, the agreement terminated on December 22, 2014 because TRF failed to waive the due diligence contingency. The proposed restatement and amendment will amend the due diligence period provision and ratify any actions subsequent to the termination.

ALTERNATIVES AND IMPLICATIONS CONSIDERED

Alternative 1) – Terminate the proposed sale and continue short-term lease of the site. This alternative is inconsistent with the Real Estate Division's strategy of disposing of assets to generate new revenue as circumstances warrant such as when an asset is surplus to the Port's operations. Terminating the proposed sale at time when market conditions are favorable, as is the case currently, would mean the loss of the expected sales proceeds with no guarantee that a comparable or better offer could be secured in the future. This is not the recommended alternative.

Alternative 2) – Competitively solicit new offers to buy or lease the site. A new competitive process to either sell or lease may not result in a comparable or better offer. Instead of a staff-driven process as was the case with the recent RFO, a real estate broker could be retained to list the Tsubota site in an attempt to generate greater market exposure and possibly additional prospective buyers with potentially higher offers. However, the Port would owe a substantial commission to the broker upon any such sale. Alternatively, long-term lease deals are almost always less attractive to the real development community because of the challenge of securing financing for the development. Consequently, long-term leases attract fewer interested developers and would not necessarily result in a better deal. While a long-term lease deal would preserve the Port's and the public's ownership of the site, there is no compelling strategic reason to maintain ownership, because the Tsubota site isn't essential to any current or anticipated Port operational need. This is not the recommended alternative.

Alternative 3) – Execute the proposed Restated and Amended Purchase and Sale Agreement and proceed with the sale. The proposed sale aligns with the surplus status of the site. This alternative is consistent with the Real Estate Division's strategy of selling assets to secure new revenue when circumstances warrant. In this case, real estate market conditions are currently favorable, and there is no guarantee that they would be more favorable in the future such that a comparable or better offer could be secured. **This is the recommended alternative.**

ATTACHMENTS TO THIS REQUEST

- Attachment 1 – Restated and Amended Real Estate Purchase and Sale Agreement

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS

- November 11, 2014 – Second Reading and Final Passage of Resolution No. 3697, surplus and sale of the Tsubota Steel site.

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- October 14, 2014 – First Reading and Public Hearing of Resolution 3697, surplusing and sale of the Tsubota Steel site.
- May 24, 2011 – Commission briefing on the offers received from Tsubota Steel site request for proposals.
- January 25, 2005 – Commission authorized acquisition of the Tsubota Steel site.