MANAGING MEMBERS
ACTION ITEM

Item No. 4A
Date of Meeting April 2, 2019

DATE: March 31, 2019

TO: Managing Members

FROM: John Wolfe, CEO

Sponsor: Tong Zhu, Chief Commercial Officer and Chief Strategy Officer

Project Managers:

Mike Campagnaro, Director Real Estate

Scott Pattison, Sr. Business Development Manager

Jennifer Maietta, Sr. Real Estate Manager

Curt Stoner, Sr. Real Estate Manager

SUBJECT: NWSA North Harbor Commercial Strategy Implementation

A. ACTION REQUESTED

Request Managing Members of The Northwest Seaport Alliance (NWSA) authorization for the Chief Executive Officer or his delegate to execute

1. Terminal 5 Term Lease with SSA Terminals (Seattle Terminals), LLC – a Joint Venture entity owned by SSAT and Total Investment Limited Sàrl (TIL)
2. Matson Step-In Rights Agreement for Terminal 5 Term Lease
3. Terminal 5 Interim Lease (Matson) with SSA Terminals, LLC (SSAT)
4. Terminal 46 Lease Termination with Total Terminals International, LLC (TTI)
5. Eighth Amendment to the Terminal 18 Lease with SSA Terminals, LLC (SSAT) and SSA Containers, Inc. (SSA) and Conditional Consent to Assignment to SSA Terminals (Seattle Terminals), LLC

B. SYNOPSIS

The North Harbor Commercial Strategy was developed to best position the Seattle-Tacoma gateway to handle ultra large container vessels (ULCV) through strategic and prioritized terminal investments. The Commercial Strategy is centered around modernization of Terminal 5 (T5); and the implementation of the strategy involves four interconnected and interdependent components.

C. BACKGROUND

Terminal 5 began operating as a container terminal in 1964. Since that time, significant investment has been made to clean up earlier landowners' contamination, improve and consolidate adjacent properties into a 185-acre international container terminal, and upgrade terminal and near-terminal infrastructure. Between 1997 and July 2014, the site was leased and operated by Eagle Marine Services, a subsidiary of American President Lines (APL).

Vessels regularly calling at our gateway have grown in capacity from 4800 TEUs in 1997 to 14,000 TEUs today. Vessels in excess of 21,000 TEUs are currently operating globally, with containerships as large as 23,000 TEUs on order. Terminal facilities, including docks and related infrastructure, must be modernized for efficient handling of ULCVs for the gateway to stay relevant as a container port, be competitive and preserve jobs that our communities depend on.

In 2015, as part of the 10-year strategic business plan, the NWSA identified Terminal 5 as one of two strategic international container terminals to prioritize for investment. The Terminal 5 modernization program provides improvements necessary to serve these new, larger vessels.

Recent economic analysis concludes that with a modernized T5, containerized cargo handled through the NWSA is estimated to reach nearly 7.0 million TEUs annually in 2050. Without the T5 investments, containerized cargo is expected to be 5.3 million TEUs in 2050, a difference of 1.6 million TEUs. Cumulative impact analysis of the T5 modernization project from 2018-2050 follows a similar trajectory. With T5 investment, the NWSA gateway is estimated to handle 173.3 million TEUs between 2018 – 2050. Without T5 investment, that estimate drops to 160 million TEUs. That estimated reduction of total TEUs results in reduced economic impact, including more than 6,000 fewer jobs and $2 billion in lower direct business output.

The global shipping market is just now rebounding from the financial crisis of almost a decade ago. Demand for international container terminals has been soft; and marine terminal operators and carrier customers have many choices. For a viable long-term commercial lease at Terminal 5, cargo must be realigned in the North Harbor to ensure operations are fluid and facilities can support sustained volume growth for years to come. This realignment includes: relocation of Matson's Hawaii service to T5 south berth while T5 north berth is under construction, thereby creating additional room at Terminal 30 (T30) for international container cargo, and early termination of the current Terminal 46 lease with TTI to support sustainable, large vessel operations at Terminal 5.

On a related matter, staff is requesting assignment of the Terminal 18 Lease to SSA Terminals (Seattle Terminals), LLC and that the T18 lease be amended to waive the intermodal yard (IY) fee, thus enhancing our ability to retain and attract new discretionary container business – a key to growing our gateway into the future. It is of critical importance that we continue to find ways to mitigate or remove all barriers that make our gateway less attractive in today's highly competitive marketplace.

The major commercial components to the North Harbor Commercial Strategy are listed below. The lease terms and conditions outlined below have been finalized as of March 31, 2019. The corresponding agreements may have been modified since the last delivery of this document in the week of March 25th, 2019. Staff will acknowledge any changes if materially changed during the presentation:

1) <u>Terminal 5 Term Lease with SSA Terminals (Seattle Terminals), LLC – a Joint Venture entity owned by SSAT and Total Investment Limited Sàrl (TIL)</u>

The main component included in the North Harbor Commercial Strategy is the **Terminal 5 Term Lease** with SSA Terminals (Seattle Terminals), LLC and its joint venture partners.

Premises: Phase 1 - 65 acres including 1,400 linear feet of the north berth and expanding to Phase 2 on or before January 1, 2024 which adds 90 acres (for a total of 158.9 acres) including the south berth.

Phase 1 Plus Option – In lieu of Phase 2, Lessee must exercise its option to relocate to the North portion of Terminal 5 and take an additional 20 acres of backland, for a total of 85 acres effective January 1, 2024, by giving written notice before July 1, 2023. Exercising this option would open up the south portion of the terminal, including the south berth, for the NWSA to pursue another operator to co-locate at Terminal 5.

Term: 30 years from rent commencement which is the later of March 16, 2021 or upon substantial completion of Terminal 5 Phase 1 construction. The effective date of the lease shall be April 3, 2019 which allows for Lessee's improvements. The lease term can be extended by mutual consent of the parties for two (2) additional five (5) year terms.

Rent: $150,000 per acre per year plus Washington State Leasehold Excise Tax beginning on rent commencement or following completion of Terminal 5 Phase 1 construction. Rent escalates a minimum of 2% per year, or 50% of CPI-U with a 5% maximum annually.

Security Deposit and Lease Guaranty: 6 months' Rent plus Leasehold Excise Tax and a continuing lease guaranty from each joint venture owner in their proportional share of ownership covering rent payment obligations under the terms of the Lease. The owners of the joint venture entity SSAT (75%) and its joint venture partner TIL (25%) will each provide continuing lease guaranty's in their proportional share of ownership of the SSA Terminals (Terminals) LLC covering rental obligations under the lease. The total amount of the rental obligation shall not exceed a total of fifteen (15) lease years of the rent obligation.

Upon payment of the Security as specified in lease, the aggregate combined amount of both member's proportionate obligation shall be capped at fourteen and one-half (14.5) years of rent. If Lessor has not made a demand for payment under the guarantees during the first (1st) year after the commencement of the lease, commencing on the first day of the second (2nd) lease year the total amount of the guaranty capped obligation shall be reduced by an amount equal to one (1) year's rent through to the first day of the seventh (7th) lease year after the commencement date, at which time the aggregate combined amount of the guaranty capped obligation will be capped at seven and one-half (7.5) years of rent, through the twenty-second (22nd) lease year after the lease commencement date. Commencing the first day of the twenty-third (23rd) lease year after the commencement date, the guaranty capped obligation cap shall reduce to seven (7) years and shall be further reduced by one (1) year's rent on the first day of each succeeding lease year, such that the guaranty capped obligation cap is equal to and does not exceed the aggregate rent for the remaining lease year(s) of the lease term.

Under the Default Remedies of the lease, Lessee's obligation to pay Rent, Termination Damages, Future Charges or a Rental Deficiency, plus any applicable Default Interest, shall not exceed and shall be limited to the amount of the guaranty capped obligation of guarantors as indicated above.

Between the Effective Date and Commencement Date in the lease, there are limited situations where Lessee might default and therefore limited ability of the NWSA to pursue remedies. Lessee's obligations for all the terms in the lease won't activate until after the Commencement Date is reached.

NWSA Master Policy Resolution 7(b)(i) and (ii) provide that Container Terminal agreements require security equal to a minimum 12 month's rental (plus leasehold tax).Adjustments for security below 12 months requires Managing Members authorization.

By a vote to approve the T5 Lease, the MM take the action required by the Master Policy Resolution.

Alterations & Improvements: Lessee, at Lessee cost, will invest in upgrading the Premises pavement and, under Phases 1 and 2, adding approximately 1,000 40-foot reefer plugs. Under Phase 1 Plus, Lessee will be reimbursed up to $9 million for construction of replacement reefer plugs in the north portion of Terminal 5. Lessor will fund the construction of a new $30 million stormwater treatment system that Lessee will design and construct.

Cranes: Phase 1: Lessee at Lessee's cost will install four (4) ship to shore cranes capable of working fully profiled ULCVs; Phase 2: Lessee at Lessee's cost will install an additional four (4) cranes with similar capabilities.

Cargo Handling Equipment: Lessee, at its cost, will supply Tier 4 yard equipment.

Stormwater: Lessee will hold the Industrial General Stormwater Permit and be responsible for performing all related Best Management Practices within its Premises.

Maintenance and Repair – Lessor will maintain or repair the dock structural piling and pile caps, the seawall and toewalls, as well as the stormwater conveyance systems and underground utilities damaged by ruptured utilities or seismic events, and the subgrade; Lessee will otherwise maintain terminal infrastructure, including the stormwater treatment system and pavement to support its operations. In the event of subgrade settling not caused by utility line ruptures, seismic events, or operations, the Lessor will repair the subgrade and the parties will share the cost of replacing the pavement system.

2) <u>Matson Step-In Rights Agreement for Terminal 5 Term Lease</u>

The second component in the North Harbor Commercial Strategy is the Matson Step-In Rights Agreement for the Terminal 5 Term Lease.

NWSA long-term customer Matson Navigation Company, Inc., via a joint venture with SSA Marine (SSA Terminals) provides both Alaska and Hawaii services in Tacoma and Seattle. The Tacoma lease for Matson's Alaska service at the West Sitcum terminal terminates on December 31, 2027. The Seattle lease for Matson's Hawaii service at Terminal 30 terminates August 2, 2039. The North Harbor Commercial Strategy calls for Matson to move its Hawaii service to Terminal 5 for a temporary period from April 3, 2019 to March 15, 2021.

Matson is committed to our gateway and needs to ensure it has a long-term terminal operating commitment to serve Hawaii from our gateway. Matson is requesting step-in rights for the Terminal 5 Term Lease in the event either NWSA or SSA Terminals (Seattle Terminals), LLC terminates the Lease.

The step-in rights allow Matson to cure a SSA Terminals (Seattle Terminals), LLC default and enter into a Replacement Lease under substantially the same terms and conditions.

3) Terminal 5 Interim (Matson) Lease with SSA Terminals, LLC (SSAT)

The third component in the North Harbor Commercial Strategy is the Terminal 5 Interim (Matson) Lease with SSA Terminals, LLC (SSAT).

Premises: Approximately 60 total acres of Container Yard and Preferential Use Dock Area

Term: 23.5 months from April 3, 2019 to March 15, 2021.

Rent: $31,250 Rent $93,750 Preferential Use Fee per month plus Leasehold Excise Tax:

Security Deposit: 12 months' Rent, plus Leasehold Excise Tax. ($1,548,150)

Maintenance: Lessee is responsible for all maintenance and repairs necessary for Lessee's operations.

Cranes: Lessee is responsible to bring four of the six (6), Port of Seattle (Port) owned, Terminal 5 cranes back into service and may use the other two (2) Terminal 5 cranes for parts. Lessee is responsible for all crane maintenance and repair responsibilities for the term of the lease. Lessor shall have no crane maintenance responsibilities.

Terminal Yard Equipment: All container handling equipment used by Lessee at the Premises shall be equipped with diesel oxidation catalysts or similarly effective emission control devices to meet emission standards equal to (or more stringent) than the cargo handling equipment used by Lessee at Terminal 30.

Stormwater: Lessee will hold the Industrial Stormwater General Permit (ISGP) and perform all Stormwater Best Management Practices (BMPs) in its premises.

4) Terminal 46 Lease Termination with Total Terminals International, LLC (TTI)

The fourth component of the North Harbor Commercial Strategy is an early Termination of the Terminal 46 Lease with Total Terminals International, LLC (TTI). The Lease Termination Agreement is to be signed in conjunction with the T5 Term Lease with the T46 Lease terminating no later than December 31, 2019. The current T46 Lease expires in 2025. Terminal International Limited (TIL), the parent company of TTI, will extend their commitment to our gateway through 2051 for the Terminal 5 Term Lease via a joint venture partnership with SSAT. TTI will realign its container business with other cargo at Terminal 18 sometime in 2019. Terminal 46 will be repurposed for other NWSA water-dependent use such as project cargo, roll-on roll-off cargo, breakbulk cargo or possibly as a container or chassis support yard for international cargo operations.

Port of Seattle is investigating the deployment of an additional cruise berth/facility at the northern portion of T46.

Premises: Terminal 46 containing approximately 3,815,107 square feet equal to 87.582 acres; containing 2,930 feet of berth.

Term: The Lease will terminate the earlier of the Lessee providing written confirmation that the Lessee has fulfilled all its obligations under the Termination Agreement, or midnight December 31, 2019 (the "Termination Date").

Cessation of Operations: The Lessee may cease operations prior to the Termination Date upon providing at least thirty (30) days prior written notification to the Lessor ("Cessation Date"). Cessation of Operations shall mean the (i) departure of all vessels; (ii) ceasing of all terminal and shipping operations; (iii) and removal of all containers from the Premises, except that, 250 empty containers may remain on terminal up through, but no later than the Termination Date.

Payment: The Lessee will continue to pay the monthly Payments and any other charges due under the Lease through the earlier of the Cessation Date or the Termination Date ("Termination Payment"). For Payments remaining through December 31, 2019, those Payments will be made by the SSA Terminals (Seattle Terminals), LLC as agreed to in the T-5 Lease Agreement. Fifty percent (50%) of the net fees received under secondary use by the NWSA following the Cessation Date through the Termination Date will be credited back to the SSA Terminals (Seattle Terminals), LLC.

Cranes: The five (5) Cranes on the Premises owned by the Lessee shall be removed at the Lessee's sole cost and expense no later than the Termination Date and will be responsible for the cost of any repairs and/or damage caused by the removal of the Cranes.

The Lessee shall notify the Lessor by July 1, 2019 if any Cranes are available for sale to the Lessor. The Lessor at its option may purchase any of the Cranes for $1.00 per Crane by written notice to the Lessee not later than July 15, 2019 with the purchase and sale to be finalized no later than July 31, 2019, otherwise the Lessee shall remove any unpurchased Cranes by the Termination Date.

The Lessee shall have a Grace Period for any Crane(s) remaining on Premises after the Termination Date through April 30, 2020, except that if the Termination Date is after November 1, 2019 (but before December 31, 2019) the Grace Period shall be extended through June 30, 2020. During the Grace period for any Crane(s) remaining on the Premises, Lessee shall pay to Lessor a late removal fee in the amount of $5,000 per month per Crane. After the Grace Period, for any Crane(s) remaining on the Premises the late removal fee shall increase to $150,000 per month per Crane or $5,000 per day per Crane for any partial month until removed. Any unpaid amounts after 30-days will accrue eight percent (8%) interest annually.

Dock Rehabilitation Impacts: Infrastructural dock repairs have been required and performed by the Port on Terminal 46 to maintain the asset, which commenced in 2018 and are expected to continue through 2019. The Rent reimbursements have been provided equal to the impacted area(s) affecting current terminal operations and will continue through the Cessation Date.

Settlement of Litigation: (pending resolution) The Lessee and the Port of Seattle have both been named as parties to a lawsuit brought by Puget Sound Keeper Alliance (PSKA) relating to alleged violations of Lessee's stormwater permit at Terminal 46. The Port of Seattle, NWSA and Lessee agree to work together to expeditiously negotiate a mutual settlement with PSKA resolving all claims in the PSKA lawsuit currently under litigation.

5) <u>Eighth Amendment to the Terminal 18 Lease with SSA Terminals, LLC (SSAT) and SSA Containers, Inc. (SSA) and Conditional Consent to Assignment to SSA Terminals (Seattle Terminals), LLC</u>

The fifth component included in the North Harbor Commercial Strategy is to amend the Terminal 18 Lease with SSAT and SSA to waive the Intermodal Yard Facility Charge retroactive to January 1, 2019 for the remainder of the lease term. The charge is a barrier and disincentive for water carrier customers to use the on-dock rail facilities at Terminal 18. This action is intended to increase on-dock use of the intermodal yard and decrease local truck drayage to and from the off-dock BNSF and Union Pacific rail yards.

Major Elements of this Amendment are as follows:

Lease Term Extension: Extend the term of the Terminal 18 lease end date of August 2, 2039 to October 27, 2049 (50 year statutory limit). Lessee's existing option right to extend the Lease for up to ten (10) additional years, shall be modified and require the NWSA's mutual approval to extend.

Intermodal Yard Facility Charge: The intermodal yard fee is discontinued effective January 1, 2019 through the remaining term of the lease.

Most Favored Nation (MFN): This clause is deleted from the Terminal 18 lease. This clause allowed SSAT to receive the same future rate that the NWSA may offer to a third party for Terminal 5 and have that same rate be applicable to Terminal 18, if lower.

Terminal 46 Lease Documentation: This clause is modified to reflect that the Terminal 46 lease termination shall not trigger a Market Rate Adjustment for the Terminal 18 lease. The clause automatically triggered a Market Rate Adjustment of the Terminal 18 lease in the event the Terminal 46 lease is amended, cancelled, renewed, or should the Port enter into a new lease for Terminal 46 prior to December 31, 2025. This clause will stay in place through December 31, 2025 with the condition that a Terminal 18 Market Rate Adjustment will only occur if the NWSA enters a new international container terminal lease for Terminal 46. Any other type lease or use will be accepted without triggering a Market Rate Adjustment.

Maintenance and Repair: The parties agree to resolve the issue of certain maintenance and repairs required on the Premises related to asphalt and subsurface repairs in the transition area between the Dock Apron and the Container Yard. Lessee will complete the required work with Lessee and NWSA agreeing to share the cost 50/50. The NWSA share will be capped at $600,000. The NWSA has estimated the cost repair at approximately $1.2 million.

Conditional Consent to Assignment to SSA Terminals (Seattle Terminals), LLC effective July 1, 2019:

New Lease: Subject to future NWSA Managing Member approval, the parties are in agreement to enter into negotiations within the next sixty (60) days on a new lease agreement for Terminal 18 that is substantively the same as the existing Terminal 18 lease. The new lessee will be the same as the Terminal 5 lessee, SSA Terminals (Seattle Terminals), LLC. The new lease is intended to be effective July 1, 2019 with a term co-terminus with the T5 term lease. The parties agree that the lease security and continuing lease guaranty will be the same as the Terminal 5 lease. If a new lease is not fully executed, this Conditional Consent to Assignment will become effective on July 1, 2019, and SSAT and SSA are relieved of their obligations under the lease. The Conditional Consent to Assignment contains the following:

Lease Guaranty: In conjunction with its agreement to enter into a lease for Terminal 5, the Terminal 18 Lessee (SSAT and SSA) have requested that the lease be assigned to SSA Terminals (Seattle Terminals), LLC the same entity that will lease Terminal 5. The owners of the joint venture entity SSAT (75%) and its joint venture partner TIL (25%) will each provide continuing lease guaranty's in their proportional share of ownership of the SSA Terminals (Seattle Terminals), LLC covering rental obligations under the lease. The total amount of the guaranty shall not exceed a total of fifteen (15) lease years of the rent. Upon payment of the security as specified in lease, the aggregate combined amount of both member's proportionate obligation shall be capped at fourteen and one-half (14.5) years of the rent. If Lessor has not made a demand for payment under the guarantees during the first (1^{st}) lease year after the assignment of the lease, commencing on the first day of the second (2nd) lease year the total amount of the guaranty capped obligation shall be reduced by an amount equal to one (1) year's rent through to the first day of the eighth (8th) lease year after the assignment date, at which time the aggregate combined amount of the guaranty capped obligation will be capped at seven and one-half (7.5) years of the rent, through the twenty-second (22nd) lease year after the assignment date. Commencing the first day of the twenty-third (23rd) lease year after the assignment date, the guaranty capped obligation shall reduce to seven (7) years and shall be further reduced by one (1) year's rent on the first day of each succeeding lease year, such that the guaranty capped obligation is equal to and does not exceed the aggregate rent for the remaining lease year(s) of the lease term.

Default Remedies: The parties agree that Section 8.2 relating to default remedies of the lease will be modified to cap Lessee's liability at fourteen and one-half (14.5) years of rent payments (rent obligation) of lessee under the Lease. If Lessor has not made a demand for payment under the guarantees during the first (1st) lease year after the effective date of the assignment, commencing on the first day of the second (2nd) lease year the total amount of the rent obligation shall be reduced by an amount equal to one (1) year's rent obligation through to the seventh (7th) lease year after the assignment. Commencing on the first day of the eighth (8th) lease year after the assignment, the aggregate combined amount of the total rent obligation will be capped at seven and one-half (7.5) years of the rent obligation, through the twenty-second (22nd) lease year after the assignment. Commencing the first day of the twenty-third (23rd) lease year after the assignment, the total rent obligation shall reduce to seven (7) years and shall be further reduced by one (1) year's rent obligation on the first day of each succeeding lease year, such that the rent obligation cap is equal to and does not exceed the aggregate rent obligation for the remaining lease term.

D. FINANCIAL IMPLICATIONS

Source of Funds

The 2019-2023 Capital Investment Plan allocates $319,000,000 ($14.2 million of previously authorized spending occurred prior to 2019) for this program, of which $0 has been spent. Both homeports' staff have identified funding mechanisms for the remaining investment. Each homeport has capacity to secure funding for its share of the T-5 Modernization Program costs.

Financial Impact

The authorization of these leases and the subsequent authorization of the Terminal 5 modernization program result in mutually acceptable rates of returns for the respective homeports.

The approximate payback period is between 18 – 24 years depending on the execution of the Phase 2 lease for Terminal 5.

Termination of the TTI lease will result in an estimated $2.5 million non-cash write-off of the remaining amortization balance of a payment to TTI in 2012 for considerations associated with lease amendment #13.

E. ALTERNATIVES CONSIDERED AND THEIR IMPLICATIONS

1) Terminal 5 Term Lease with SSA Terminals (Seattle Terminals), LLC – a Joint Venture entity owned by SSAT and Total Investment Limited Sàrl (TIL)

Alternative 1: Do not redevelop Terminal 5 to handle ultra-large containerships. This would preclude moving forward with North Harbor realignment. Moreover, it would limit future use of Terminal 5 to operations utilizing smaller ships, such as for breakbulk, roll-on roll-off, and domestic cargo, limiting revenues to the NWSA, reducing container volumes through the gateway below NWSA strategic goals and the economic impacts that would accrue to the region. NWSA staff does not recommend this alternative.

Alternative 2: Redevelop Terminal 5 without a lease commitment and revenue guarantee. Without revenues generated from this Lease, funding capacity for the Modernization Project would be constrained, and the potential of securing a future tenant under remunerative terms following completion of the investments would be speculative. This alternative does not guarantee North Harbor realignment. NWSA staff does not recommend this alternative.

Recommendation: Approve the Terminal 5 Term Lease with SSA Terminals (Seattle Terminals), LLC. This alternative would provide revenues to substantially fund necessary investments by the NWSA, would be complemented by tenant capital investments, increase the utilization of Terminal 5 to its highest and best use, increase the overall volume of containerized cargo in the North Harbor in alignment with NWSA strategic goals. In addition, the highly desirable environmental improvements to Terminal 5 would be financed through this new tenant lease agreement.

2) Matson Step-In Rights Agreement for Terminal 5 Term Lease

Alternative: Do not provide Matson with the rights offered in the Matson Step-In Rights Agreement. Matson might not move their Hawaii service to Terminal 5 for a temporary period. This would preclude moving forward with North Harbor realignment. NWSA staff does not recommend this alternative.

Recommendation: Approve the Matson Step-In Rights Agreement. Having Matson move to T5 during Phase 1 construction provides more space for international cargo at T30 and keeps both T18 and T30 fluid.

3) Terminal 5 Interim Lease (Matson) with SSA Terminals, LLC (SSAT)

Alternative: Do not move Matson's Hawaii service from Terminal 30 to Terminal 5. This would preclude North Harbor cargo realignment. Terminal 18 is approaching capacity. Keeping Terminal 18 fluid requires moving some Terminal 18 cargo to another marine terminal. Terminal 30 is best situated to absorb some of the Terminal 18 volume so long as Matson moves to Terminal 5. NWSA staff does not recommend this alternative.

Recommendation: Approve the Terminal 5 SSAT (Matson) Lease. Having Matson move to Terminal 5 during Phase 1 construction provides more space for international cargo at Terminal 30 and keeps both Terminal 18 and Terminal 30 fluid.

4) <u>Terminal 46 Lease Termination with Total Terminals International, LLC (TTI)</u>

Alternative: Do not terminate the Terminal 46 lease with TTI. This alternative continues lease revenue through lease expiration of December 31, 2025 with no future guarantee. The existing container volumes currently at Terminal 46 would not move to another North Harbor terminal. This alternative would preclude North Harbor realignment. NWSA staff does not recommend this alternative.

Recommendation: Terminate the Terminal 46 lease which allows TTI's parent company to extend their commitment to the NWSA gateway through 2051 for the Terminal 5 Term Lease via a joint venture partnership with SSAT.

5) <u>Eighth Amendment to the Terminal 18 Lease with SSA Terminals, LLC (SSAT) and SSA Containers, Inc. (SSA) and Conditional Consent to Assignment to SSA Terminals (Seattle Terminals), LLC</u>

Alternative: Do not amend the Terminal 18 lease agreement with SSAT and SSA and Conditional Consent to Assignment. The NWSA will continue to collect intermodal fees to the extent that SSAT's customers choose to use the Terminal 18 intermodal facility. This alternative does not support the NWSA strategy of incentivizing SSAT's and SSA's water carrier customers to use the Terminal 18 on-dock rail facilities. NWSA staff does not recommend this alternative.

Recommendation: Amend the Terminal 18 lease and Conditional Consent to Assignment. This will remove barriers and deductively motivate customers to use the Terminal 18 on-dock intermodal facility rather than truck drayage. This action is intended to increase on-dock use of the intermodal facility and decrease local truck drayage to and from the off-dock BNSF and Union Pacific rail yards that have air pollution and local roadway congestion consequences.

Recommended Action: Authorize the Chief Executive Officer or their delegate to approve and execute the following documents:

1. Terminal 5 Term Lease with SSA Terminals (Seattle Terminals), LLC – a Joint Venture entity owned by SSAT and Total Investment Limited Sàrl (TIL)
2. Matson Step-In Rights Agreement for Terminal 5 Term Lease
3. Terminal 5 Interim Lease (Matson) with SSA Terminals, LLC (SSAT)
4. Terminal 46 Lease Termination with Total Terminals International, LLC (TTI)
5. Eighth Amendment to the Terminal 18 Lease with SSA Terminals, LLC (SSAT) and SSA Containers, Inc. (SSA) and Conditional Consent to Assignment to SSA Terminals (Seattle Terminals), LLC

These five (5) agreements and Conditional Consent to Assignment support the NWSA's North Harbor strategy of increasing the utilization of Terminal 5 to its highest and best use, increasing the overall volume of containerized cargo in the North Harbor and to promote positive economic impacts that would accrue to the region.

F. ENVIRONMENTAL IMPACTS / REVIEW

The five commercial components outlined above are impacted differently and discussed below.

1) <u>Terminal 5 Term Lease with SSA Terminals (Seattle Terminals), LLC – a Joint Venture entity owned by SSAT and Total Investment Limited Sàrl (TIL)</u>

The Terminal 5 rehabilitation and improvement project has been subject to detailed review and has received city, state, and federal permit authorizations. Rehabilitation and improvement actions are subject to land use and construction permit conditions which NWSA must meet to operate. These include gate queue management to avoid blockages of the Spokane Street Swing Bridge; management of cargo and intermodal rail operations consistent with noise code requirements; control of air emissions, including deployment of shorepower capability; stormwater improvements; and other regulatory compliance requirements.

Permitting: City of Seattle land use and construction permit approvals stipulate actions both NWSA and the site operator must undertake. This includes a Gate Queue Management Plan and an On-Terminal Noise Plan. These requirements have been communicated to the operator and are described in the Terminal 5 Term Lease with SSA Terminals (Seattle Terminals), LLC.

Remediation: This site has many covenants and conditions related to its long industrial history. These covenants and conditions have also been communicated to the operator and are memorialized in the lease.

Stormwater: The operator will design and install necessary stormwater treatment system improvements, hold the permit in their name, and perform all necessary Best Management Practices. NWSA will reimburse the operator for system design and construction. This is also memorialized in the lease.

Air Quality: Once the Terminal 5 Term Lease with SSA Terminals (Seattle Terminals), LLC is activated, the new use will be subject to limiting emissions of fine particulate (PM2.5) from operations as defined in the Memorandum of Understanding with the Puget Sound Clean Air Agency, including specified threshold actions. There are multiple ways to meet the limit stipulated. The operator will need to use Tier 4 cargo handling equipment. As volumes increase, the operator will be required to promote shore power use.

2) **Matson Step-In Rights Agreement for Terminal 5 Term Lease: No impacts.**

3) **Terminal 5 Interim (Matson) Lease with SSA Terminals LLC (SSAT)**

Permitting: This interim use lease will operate as a continuation of former container cargo operations, consistent with previous Terminal 5 use authorizations and not be subject to the 2019 permit requirements.

Remediation: No change to normal lease requirements

Stormwater: The tenant will hold the stormwater permit for a defined “stormwater premises” in the south berth. This area holds the backland operations for SSAT / Matson. This defined area is exclusive of any area covered by a construction general stormwater permit and the preferential use area. The tenant is responsible for BMPs on the preferential use area.

Air: The interim use lease will operate consistent with previously approved air quality requirements as a continuing marine terminal use.

4) **Terminal 46 Lease Termination with Total Terminals International, LLC (TTI): No impacts.**

5) **Eighth Amendment to the Terminal 18 Lease with SSA Terminals, LLC (SSAT) and SSA Containers, Inc. (SSA) and Conditional Consent to Assignment to SSA Terminals (Seattle Terminals), LLC : No impacts.**

G. ATTACHMENTS TO THIS REQUEST

- PowerPoint presentation.

H. PREVIOUS ACTIONS OR BRIEFINGS

- North Harbor Commercial Strategy Briefing February 5, 2019
- North Harbor Commercial Strategy Briefing February 26, 2019