

THE NORTHWEST SEAPORT ALLIANCE
MEMORANDUM

MANAGING MEMBERS

Action Item

Item No.

5A

Date of Meeting

June 2, 2020

DATE: May 12, 2020

TO: Managing Members

FROM: John Wolfe, CEO

Sponsor: Tong Zhu, Chief Commercial and Strategy Officer

Project Manager: Mike Campagnaro, Director, Alliance Real Estate

Jennifer Maietta, Senior Mgr. Alliance Real Estate

SUBJECT: The Northwest Seaport Alliance (NWSA)'s Master License Agreement with FOSS – Terminal 46 Extension

A. ACTION REQUESTED

Foss Master License Agreement Extension – Request Managing Members of The Northwest Seaport Alliance (NWSA) authorization for the Chief Executive Officer or their delegate to approve a one (1) year extension of the Master License Agreement with Foss for Terminal 46.

B. SYNOPSIS

The Master License concept for Terminal 46 (similar to the Terminal 5 Master License) was established to allow The Northwest Seaport Alliance the ability to have continued and sustained interim maritime activity at Terminal 46 during and following the departure of Total Terminals International, LLC (TTI) from the Terminal.

C. BACKGROUND

- The NWSA Managing Members approved the termination of the TTI lease on April 2, 2019. TTI had its last vessel call in June of 2019 with the lease officially terminating on December 31, 2019. Prior to the lease termination, the NWSA exercised its secondary user rights under the TTI lease and entered into the Master License Agreement with Foss Maritime Company, LLC.
- The NWSA Master License agreement provides Foss the flexibility to respond to spot opportunities for handling vessels and cargo. Foss submits a Temporary License request for each opportunity to the NWSA. Upon approval, a Temporary License is issued for each request.
- The Master License with Foss Maritime is a non-exclusive agreement. It does not give Foss any exclusive rights to any portion of the Terminal. The NWSA retains the ability to use or lease any portion of the Terminal covered by the Foss Master License, provided that area is not in use under a previously approved Temporary License.

- Related to T46 yet separately, The NWSA and the Port of Seattle (POS) entered into an Interlocal Agreement (ILA) commencing January 1, 2020 allowing the POS to develop a cruise terminal on the north 29 acres of the terminal including 1450 feet of berth. The ILA, as amended, allows the NWSA to continue utilizing 29 acres through the Master Licenses Agreement as approved by the POS. Revenue generated by Temporary Licenses in these areas passes to the POS.
- Foss, under the Master License has been able to keep Terminal 46 active with several maritime related uses to date to include, but not limited to, vessel and barge lay berth/moorage, equipment storage and Pacific Maritime Association (PMA) Longshore training.
- The Foss Master License at Terminal 46 (T46) commenced on July 26, 2019 and terminates on June 30, 2020. Foss as provided written notification to the NWSA under the current agreement that it would like to extend the Master License for an additional 12 months pending the approval of the Managing Members.

D. PRIMARY LICENSE TERMS

- Use: Vessel layberth provisioning, outfitting, repair, or for a cargo terminal which means a transportation facility in which quantities of goods or cargo are stored, transferred to other carriers or stored outdoors in order to transfer them to other locations and may include accessory warehouses, railroad yards, storage yards, and offices.
- Lease Term: One (1) year with one mutually approved one-year extension.
- Option to Terminate: The NWSA has the right to terminate Master License upon 90-days notification to Foss.
- Fee Structure: Predetermined rates for berth space, yard area and use of buildings are established in the Master License (attached to this Memorandum).
- Non-exclusive Use: Foss is only allowed use of the Terminal by licensed areas approved by the NWSA through the Temporary Licenses.
- Security Deposit: Fifty-Thousand Dollars (\$50,000.00)
- Insurance Requirements:
 - \$5 Million general liability
 - \$1 Million auto liability
- Utilities: Foss shall be liable for payment of any utilities consumed, either directly to utility suppliers or as pro-rated by the NWSA to multiple users. Dockage utilities used by Vessels are billed back to the Foss.
- Maintenance Responsibility: All maintenance and repair of Temporary Premises are the sole cost and expense of Foss.
Environmental/Stormwater: Foss shall comply with all city state and local municipal rules, regulations, ordinances, permits and Best Management Practices required for water quality pollution and prevention and stormwater.

E. FINANCIAL SUMMARY

The fee structure is based upon the type of use detailed in the Master License (attached to this memorandum) and described as stated above.

In order to maintain the terminals, the NWSA incurs regular fixed expenses including stormwater utility, utilities, security, maintenance and insurance costs. These FIXED

EXPENDITURES occur with or without the Foss Master License. Accordingly, below is the budgeted 2020 NWSA revenue for the FOSS Master License, which will help offset the estimated NWSA expenditures for 2020 as follows:

- 2020 NWSA Projected Revenue through the Foss Master License (Budgeted)

T46 Master License Revenue: \$ 500,000

T46 Fixed Expenses: \$1,020,300*

*According to the ILA this amount represents the NWSA portion (66.5%) of T46 expenses and does not include the POS portion (33.5%) of T46 expenses.

- Total revenue generated by the Foss Master License for Terminal 46 to date is \$530,900 (August 2019 – April 2020) of this \$321,600 went to the NWSA and starting January 2020 \$209,300 went to POS.

F. ALTERNATIVES CONSIDERED AND THEIR IMPLICATIONS

- **No Action Alternative:** The Master License currently in effect will terminate June 30, 2020. Under the Foss Master License, Foss is responsible for the acquiring of sublicensee business, management of the sublicensees and their activities. Should the Master License terminate, this management would fall to the NWSA staff and would make it more difficult to seek a long-term use.
- **Recommended Action:** Recommend approval the one (1) year extension of the Master License with Foss for Terminal 46. An extension will allow continued temporary short-term maritime uses managed by Foss while the NWSA continues pursuing a long-term maritime use and/or other interim uses. Revenue generated from the Master License will off-set some of the terminal expenses. The Master License can provide additional activity within the POS cruise portion of T46 while the cruise development is on-hold.

G. ENVIRONMENTAL IMPACTS / REVIEW

- No activity under the Master License requires a stormwater permit. Foss shall comply with all city state and local municipal rules, regulations, ordinances, permits and Best Management Practices required for water quality pollution and prevention and stormwater.

H. ATTACHMENTS TO THIS REQUEST

- Computer Slide Presentation
- Master License Agreement by and between the Northwest Seaport Alliance and Foss Maritime Company, LLC dated effective July 25, 2019. (Terminal 46)

I. PREVIOUS ACTIONS OR BRIEFINGS

- Staff Briefing of the Foss Maritime Master License (Terminal 46) dated April 7, 2020



**THE NORTHWEST
SEAPORT ALLIANCE**
Gateway to Solutions

Item No.: 5A
Date of Meeting: June 2, 2020

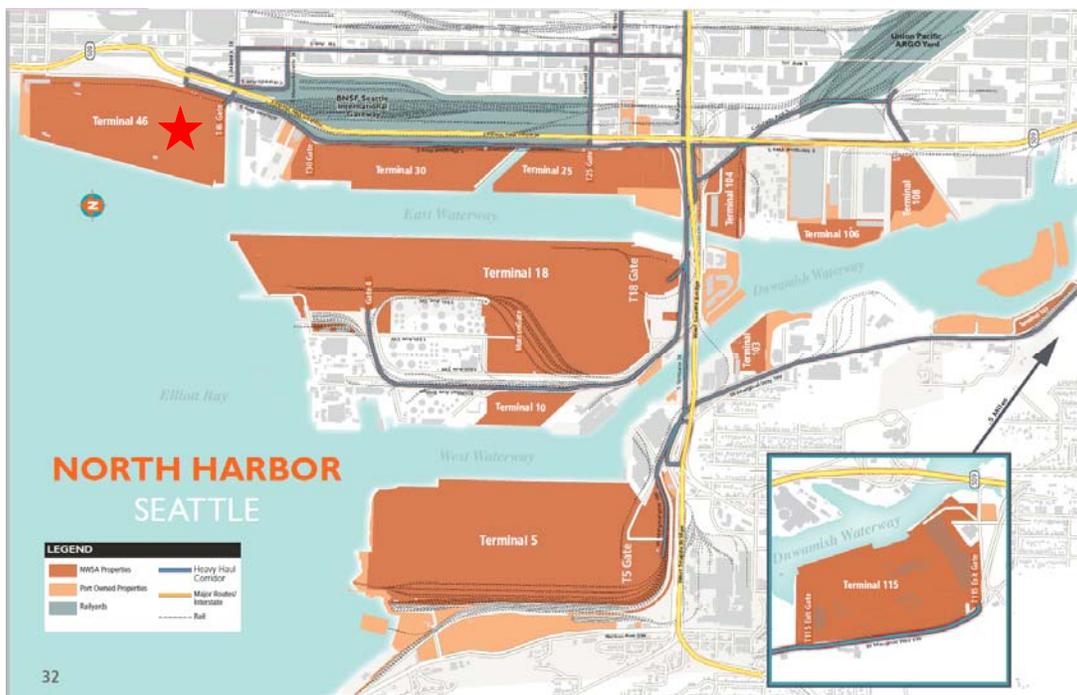
Second Reading: Terminal 46 Foss Master License Agreement - Extension

Presenter: Jennifer Maietta
Sr. Real Estate Manager

Action Requested

Authorization for the Chief Executive Officer or their delegate to approve a one (1) year extension of the Master License Agreement with Foss for Terminal 46.

Terminal 46



Terminal 46



Background

- The Foss Master License was entered into for the purposes of continued and sustained interim maritime activity at Terminal 46 during and following the departure of Total Terminals International, LLC (TTI) from the Terminal.
 - The NWSA Managing Members approved the termination of the TTI lease on April 2, 2019.
 - TTI had its last vessel call in June of 2019 with the lease officially terminating on December 31, 2019.
 - Prior to the lease termination, the NWSA exercised its secondary user rights under the TTI lease and entered into the Master License Agreement with Foss Maritime Company, LLC.

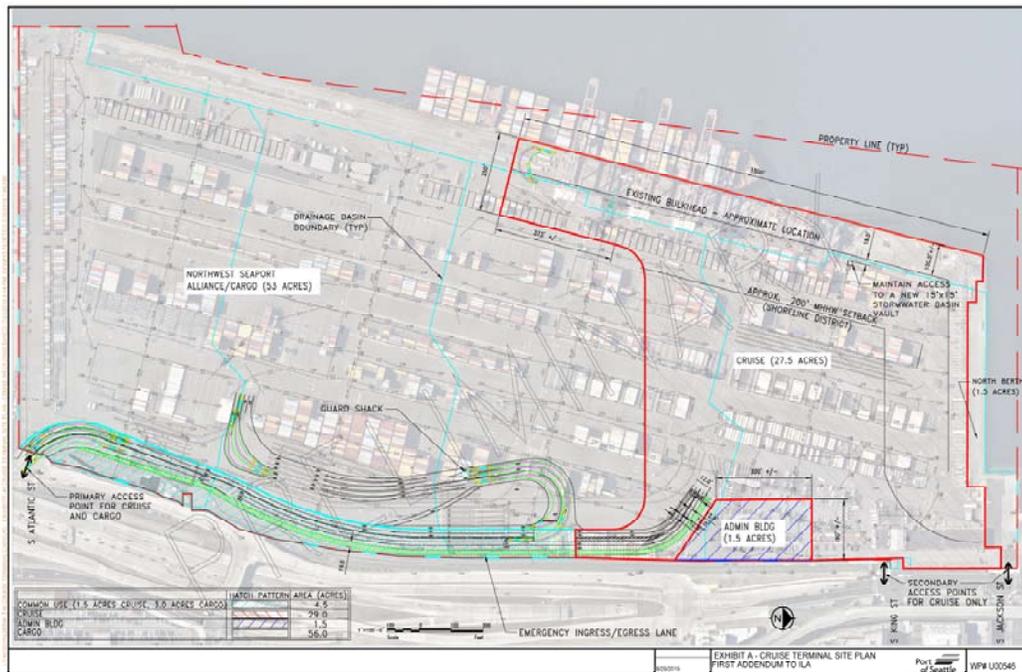
Background

- The NWSA Master License agreement provides Foss the flexibility to respond to spot opportunities for handling vessels and cargo.
 - Foss submits a Temporary License request for each opportunity to the NWSA.
 - Upon approval, a Temporary License is issued for each request.
- The Master License with Foss Maritime is a non-exclusive agreement.
 - It does not give Foss any exclusive rights to any portion of the Terminal.
 - The NWSA retains the ability to use or lease any portion of the Terminal covered by the Foss Master License, provided that area is not in use under a previously approved Temporary License.

Background

- Related to T46 yet separately, The NWSA and the Port of Seattle (POS) entered into an Interlocal Agreement (ILA) commencing January 1, 2020 allowing the POS to develop a cruise terminal on the north 29 acres of the terminal including 1450 feet of berth.
 - The ILA, as amended, allows the NWSA to continue utilizing 29 acres through the Master Licenses Agreement as approved by the POS.
 - Revenue generated by Temporary Licenses in these areas passes to the POS.

Foss Master License POS Cruise (ILA) Area



Foss Master License NWSA Marine Cargo Area



Background

- Foss, under the Master License has been able to keep Terminal 46 active with several maritime related uses:
 - Vessel and barge lay berth/moorage
 - Equipment, chassis and other yard storage
 - Pacific Maritime Association (PMA) Longshore training
- The Foss Master License at Terminal 46 (T46)
 - Commenced on July 26, 2019 and
 - Terminates on June 30, 2020.
 - Foss has notified the NWSA of their desire to extend the Master License for an additional 12 months

Primary License Terms

TERM	DESCRIPTION
Use	Vessel layberth provisioning, outfitting, repair, or for a cargo terminal which means a transportation facility in which quantities of goods or cargo are stored, transferred to other carriers or stored outdoors in order to transfer them to other locations and may include accessory warehouses, railroad yards, storage yards, and offices.
Lease Term	One (1) year with one mutually approved one-year extension.
Option to Terminate	The NWSA has the right to terminate Master License upon 90-days notification to Foss.
Fee Structure	Predetermined rates for berth space, yard area and use of buildings are established in the Master License (attached to this Memorandum).
Non-exclusive Use	Foss is only allowed use of the Terminal by licensed areas approved by the NWSA through the Temporary Licenses.
Security Deposit	Fifty-Thousand Dollars (\$50,000.00)
Insurance Requirements	\$5 Million general liability; \$1 Million auto liability
Utilities	Foss shall be liable for payment of any utilities consumed, either directly to utility suppliers or as pro-rated by the NWSA to multiple users. Dockage utilities used by Vessels are billed back to the Foss.
Maintenance	All maintenance and repair of Temporary Premises are the sole cost and expense of Foss.
Environmental & Stormwater	Foss shall comply with all city state and local municipal rules, regulations, ordinances, permits and Best Management Practices required for water quality pollution and prevention and stormwater.

Financial Summary

- In order to maintain the terminals, the NWSA incurs regular fixed expenses including stormwater utility, utilities, security, maintenance and insurance costs. These FIXED EXPENDITURES occur with or without the Foss Master License. Accordingly, below is the budgeted 2020 NWSA revenue for the FOSS Master License, which will help offset the estimated NWSA expenditures for 2020 as follows:

2020 NWSA Projected Revenue through the Foss Master License
(Budgeted)

T46 Master License Revenue:	\$ 500,000
T46 Fixed Expenses:	\$1,020,300*

*According to the ILA this amount represents the NWSA portion (66.5%) of T46 expenses and does not include the POS portion (33.5%) of T46 expenses.

Alternatives Considered and Their Implications

- **No Action Alternative:** The Master License currently in effect will terminate June 30, 2020. While NWSA and Foss jointly market the site, Foss is responsible for managing sublicensees and their activities. Should the Master License terminate, this daily management work would fall to the NWSA staff and would require significant resources.
-
- **Recommended Action:** Recommend approval the one (1) year extension of the Master License with Foss for Terminal 46. An extension will allow continued temporary short-term maritime uses managed by Foss while the NWSA continues pursuing a long-term maritime use and/or other interim uses. Revenue generated from the Master License will off-set some of the terminal expenses. The Master License can provide additional activity within the POS cruise portion of T46 while the cruise development is on-hold.

Action Requested

Request Managing Members of the Northwest Seaport Alliance (NWSA) authorization for the Chief Executive Officer or their delegate to approve a one (1) year extension of the Master License Agreement with Foss for Terminal 46.