

**THE NORTHWEST SEAPORT ALLIANCE**  
**MEMORANDUM**

**MANAGING MEMBERS**  
**ACTION ITEM**

Item No. 5C  
Date of Meeting August 1, 2017

**DATE:** July 10, 2017  
**TO:** Managing Members, The Northwest Seaport Alliance (NWSA)  
**FROM:** **Sponsor:** Tong Zhu, Chief Commercial Officer, Container & Real Estate, NWSA  
**Project Manager:** Anne Porter, POS Capital Project Manager  
**SUBJECT:** Terminal 5 Berth Modernization: Additional Funding and Agreements (5)

**A. ACTION REQUESTED**

Resolution No. 2015-06, delegation of Authority Master Policy, paragraph 8.a.1. requires Managing Member authorization for all Agreements with other public agencies, and paragraph 8.b.iv. requires Managing Member authorization for all projects where the estimated total project cost exceeds \$300,000.

These actions pertain to Terminal 5 Berth Modernization, Master Identification No. C800132.

Requested actions:

DUAL VOTE: NWSA / PORT OF SEATTLE / PORT OF TACOMA:

- (1) Project authorization and funding in the amount \$5,200,000 (\$2,600,000 from each Port) for planning, design, and construction of railroad quiet zone for a total authorized amount of \$25,400,000.
- (2) Project authorization and funding in the amount of \$450,000 (\$225,000 from each Port) for construction impacts and pilot program as part of the agreements with tribal entities.
- (3) Revised total project authorization of \$25,850,000.

NWSA ONLY VOTE:

- (4) Execution of Agreement with City of Seattle to establish a railroad quiet zone near Terminal 5;
- (5) Execution of an Agreement with City of Seattle for W Marginal Way SW street closure;
- (6) Execution of an Agreement with Puget Sound Clean Air Agency to establish an Air Quality Management Program at Terminal 5 consistent with objectives established in City of Seattle shoreline land use permit ;
- (7) Execution of Agreement with Muckleshoot Tribe confirming commitments regarding construction activities related to Terminal 5.
- (8) Execution of Agreement with Suquamish Tribe confirming commitments regarding construction activities related to Terminal 5.

**B. SYNOPSIS**

The Terminal 5 modernization project provides improvements necessary to serve newer, larger vessels that will help maintain the NWSA's competitive position, preserve and grow jobs and support a healthy economy for the region and state. The improvements include crane rail strengthening, berth deepening, slope stabilization, electrical supply/distribution upgrades, new fender system and structural rehabilitation of the dock.

The project team has completed 100 percent design documents and is now waiting for final permit approvals before requesting authorization to advertise construction of the project. Three agreements are required prior to issuance of the City of Seattle, Master Use Permit / Shoreline Substantial Development Permit. Conditions of permit issuance include:

- 1) Agreement with Seattle Department of Transportation to plan, design, and fund improvements that will permanently close surface W Marginal Way SW north of SW Spokane Street;
- 2) Agreement with Seattle Department of Transportation (SDOT) to work together to establish a railroad quiet zone between train bridge and gate of terminal;
- 3) Agreement with Puget Sound Clean Air Agency (PSCAA) to implement an Air Quality Management Program.

In addition, the US Army Corps of Engineers' permit is subject to concurrence with affected tribal entities. The Muckleshoot and Suquamish Tribes will not oppose the project subject to these agreements with the Tribes that:

- 1) Identify commitments to minimize access conflicts with tribal fishers;
- 2) Establish a Fisheries Mitigation Fund for construction impacts;
- 3) Provide for a new pilot program to compensate tribal fishers displaced from productive net set locations;
- 4) Documents an interest in discussions to extend the existing Fisheries Mitigation Fund for ten years upon completion of the current 2015-2020 agreement term. The uses of funds for the agreements are contingent upon the project construction schedule, but are required prior to occupancy of the completed project.

## **C. BACKGROUND**

Terminal 5 began operating as a container terminal in 1964. Since that time, the Port of Seattle invested in significant environmental cleanup and facility improvements to consolidate properties and create a 182-acre international container terminal, which was completed in 1997. Until July 2014, the site was leased and operated by Eagle Marine Services, a subsidiary of American President Lines.

Vessels calling at the Northwest Seaport Alliance and the Port of Seattle have grown in size from 4,800 TEUs in 1997 to 10,000 TEUs today with 19,000+ TEUs currently operating globally. To stay relevant in the shipping industry and maintain the Alliance's competitive position and preserve jobs, dock and infrastructure upgrades are needed to modernize the terminal for handling current and future classes of container vessels including the capability for installing larger dual-hoist cranes.

The Terminal 5 project provides improvements necessary to serve newer, larger vessels. The improvements include crane rail strengthening, berth deepening, slope stabilization, electrical supply/distribution upgrades, new fender system and structural rehabilitation of the dock. Multiple requests for funding authorizations reflect stages and changes in both the design and the environmental review process, including separate requests for preliminary studies, progressively higher stages of design, addition of a test pile program and shifting from a determination of non-significance to a determination of significance.

Project permitting and environmental review require multiple agency approvals at federal, state and local levels. Community and City of Seattle interest in the project as a potential long-term, major impact to noise, air and traffic required detailed analyses to establish project parameters that would avoid, minimize and mitigate project effects. Several of the

mitigation elements, required as a result of the environmental analyses, are listed as conditions of approval for the Shoreline Substantial Development Permit application. Commission approval for the request to execute agreements with SDOT and PSCAA will lead to issuance of the permit.

US Army Corps of Engineers (USACE) authorization of in-water construction actions necessary for Terminal 5 cargo wharf rehabilitation requires approval from participating federal agencies, in this instance the National Marine Fisheries Service, U.S. Fish and Wildlife Service, and the Environmental Protection Agency. In addition, an essential federal requirement includes avoiding and minimizing potential negative effects on tribal treaty fishing access, requiring consultation and resolution of potential project conflicts with federally recognized Tribes, native sovereign nations. The Port of Seattle and the Northwest Seaport Alliance have worked with the Muckleshoot Indian Tribe and the Suquamish Tribe in past years to maintain general usual and accustomed treaty fishing access throughout Elliott Bay and the Duwamish Waterway, balanced with commercial access to marine terminal, cargo, passenger, and marina facilities. Due to the potential for three years of extensive in-water construction activity, the Terminal 5 wharf rehabilitation project required site-specific treaty fishing access negotiations. The Port, NWSA, the Muckleshoot Indian Tribe, and the Suquamish Tribe have determined actions and compensation terms for avoiding and minimizing potential negative treaty fishing effects expected from the Terminal 5 project, including in-water construction and subsequent cargo operations. Commission approval to execute and fund letters of agreement with the Muckleshoot Indian Tribe and the Suquamish Tribe is required in order to confirm Port and NWSA roles and responsibilities with the tribes. The approved agreements will be forwarded to the Tribes for final approval and signature. The Tribes will then provide written approval of the Terminal 5 project to the USACE. The USACE will then be able to issue the permits.

#### **D. PROJECT DESCRIPTION AND DETAILS**

The request before the Managing Members is limited to funds to execute and fund two agreements with SDOT, one with PSCAA, and two with the Tribes; with the exception of the railroad quiet zone, construction funds will be sought separately at a later date.

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

Project objectives include a wharf that is capable of handling two EEE class vessels, with an approximate length of 1300 feet, 23 containers wide, with a capacity of approximately 18,000 twenty foot equivalent units (TEUs), by mid-2020. The improved wharf will support up to 12 cranes capable of servicing EEE class vessels. Additionally the wharf will be capable of providing ship-to-shore power for vessels berthed at the facility. The proposed capital improvements will maintain the economic and job benefits from the cargo business at Terminal 5.

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

The additional funds are needed for planning, design, and installation of the improvements specified in the proposed agreements.

The proposed project consists of modifications to existing marine cargo facilities, including cargo wharf rehabilitation, berth deepening, electrical service capacity improvements, and

upland improvements, with the potential for increased cargo volume at the site. Although not in the current project scope of work, future project plans may eventually include reconfigured marine cargo marshalling area, re-organized intermodal rail facilities, cargo area lighting modifications, pavement repair and maintenance, maintenance and repair buildings improvements, and evaluation of entrance/exit gates and heavy vehicle access points. Any future plans would require additional environmental review once sufficient information is available about a potential tenant's operations.

#### ***Schedule***

Remaining permits are expected by late 2017. Authorization from Managing Members would be sought at a later date to advertise for construction.

### **E. FINANCIAL IMPLICATIONS**

#### ***Project Cost Details***

<b>Project Element Description</b>	<b>This Request</b>	<b>Total Project Cost</b>	<b>Cost To Date</b>	<b>Remaining Cost</b>
Design and Permits	\$0	\$14,100,000	\$13,111,000	\$989,000
Seattle City Light (Public Expense*)	\$0	\$6,100,000	\$60,000	\$6,040,000
Railroad Quiet Zone (Public Expense*)	\$5,200,000	\$5,200,000	\$0	\$5,200,000
Tribal Agreements	\$450,000	\$2,450,000	\$0	\$2,450,000
Construction	\$0	\$235,000,000	\$0	\$235,000,000
Future Permit Conditions and Scope Changes	\$0	\$37,150,000	\$0	\$37,150,000
<b>Total</b>	<b>\$5,650,000</b>	<b>\$300,000,000</b>	<b>\$13,171,000</b>	<b>\$286,829,000</b>
Previously Authorized	\$20,200,000			
<b>Revised Total Authorization</b>	<b>\$25,850,000</b>			

\*Public Expense budget accounts for capital assets to be owned by other public agencies (i.e., City of Seattle and BNSF)

#### ***Source of Funds***

The 2017-2021 Capital Improvement Plan Budget allocates \$7,578,000 for this project, of which \$900,000 has been spent. The request for \$5,650,000 is an incremental request in addition to the \$7,578,000 included in the Capital Improvement Plan. Both homeports' staff have identified funding mechanisms for the additional investment expense.

#### ***Financial Impact***

SDOT and BNSF costs of \$5,200,000 will be a public expense that is paid out as incurred. The use of the construction funds for the agreement with the City (Seattle Department of Transportation) for the railroad quiet zone is contingent upon the implementation of project construction.

Tribal fishing mitigation pilot and construction impact program costs of \$450,000 will be expensed annually in the amount of \$150,000 in 2017, 2018 and 2019. NWSA staff have

identified 2017 funds within the NWSA operating budget and will include 2018 and 2019 in the operating budget for those years.

An additional \$2,000,000 for construction mitigation will be included in the Terminal 5 construction authorization and funding request and will be payable at the time of that authorization.

#### **F. ALTERNATIVES CONSIDERED AND THEIR IMPLICATIONS**

**Alternative 1) Do Nothing.** Reduce the investment in Terminal 5 to maintenance levels and lease the terminal as-is to an operator. Operations would be restricted to non-containerized cargo or other industrial water-dependent activity. This would not likely increase the utilization of the terminal nor would it increase volume of containerized cargo, making it more difficult to reach strategic goals of 70% terminal utilization and 6M TEU's.

**Alternative 2) Authorize the agreements with the City of Seattle, Puget Sound Clean Air Agency and tribes, but delay funding authorization of the quiet zone.** The railroad and federal application, design, approval and construction process would likely require approximately two to three years to complete. The City's permit condition requires the quiet zone to be in place in order to receive the occupancy permit, so it is recommended the quiet zone authorization be granted now in order to ensure this permit condition is met when the tenant is ready to occupy and operate Terminal 5. A majority of the quiet zone funding will be spent on construction, which will not occur until after Terminal 5 construction authorization has been acted upon.

**Alternative 3) This request.** Invest additional funds in meeting permit condition related to railroad quiet zone for Terminal 5 modernization; execute agreements with City of Seattle for railroad quiet zone and closure of W. Marginal Way SW; execute agreement with Puget Sound Clean Air Agency for Air Quality Management Plan, execute agreement with Muckleshoot Tribe confirming commitments, and execute agreement with Suquamish Tribe confirming commitments. This alternative supports strategic goals to achieve 70% utilization and 6M TEU's, as well as takes into consideration other investments being considered by competitor gateways.

#### **G. ENVIRONMENTAL IMPACTS / REVIEW**

A Final Environmental Impact Statement (FEIS) for the Terminal 5 Berth Modernization project was completed in October 2016. Permits for the project are currently being reviewed by the appropriate regulatory agencies.

#### **H. ATTACHMENTS TO THIS REQUEST**

1. Draft Agreement with City of Seattle (subject to change as the parties negotiate the specific terms) for railroad quiet zone.
2. Draft Agreement with City of Seattle (subject to change as the parties negotiate the specific terms) for closure of W Marginal Way SW north of S Spokane Street.
3. Draft Agreement with Puget Sound Clean Air Agency (subject to change as the parties negotiate the specific terms) for Air Quality Management Program.

4. Draft Agreement with Muckleshoot (subject to change as the parties negotiate the specific terms)
5. Draft Agreement with Suquamish (subject to change as the parties negotiate the specific terms)
6. Computer Slide Presentation

**I. PREVIOUS ACTIONS OR BRIEFINGS**

<b>DATE</b>	<b>ACTION</b>	<b>AMOUNT</b>
October 4, 2016	Additional Funding, Seattle City Light Agreement, and Project Labor Agreement	\$8,200,000
June 7, 2016	DEIS Briefing	\$0
November 4, 2015	Additional SEPA and Design Funding	\$2,000,000
October 13, 2015	Test Pile Bids Exceeded Engineer's Estimate	\$0
July 14, 2015	Additional Design Authorization	\$5,000,000
June 3, 2014	Initial Design Authorization	\$4,700,000
May 13, 2014	T5 Berth Modernization Briefing	\$0
March 12, 2014	Additional Pre-Design Authorization*	\$150,000
November 27, 2013	Initial Pre-Design Authorization*	\$150,000
<b>TOTAL</b>		<b>\$20,200,000</b>

\*Pre-Design Authorizations were approved at the Division level per delegation authority allowed by Port of Seattle policy.