

THE NORTHWEST SEAPORT ALLIANCE
MEMORANDUM

MANAGING MEMBERS
ACTION ITEM

Item No.

8D

Date of Meeting

May 2, 2023

DATE: April 11, 2023

TO: Managing Members

FROM: John Wolfe, CEO

Sponsor: Tong Zhu, Chief Commercial & Chief Strategy Officer

Project Manager: Curt Stoner, Senior Real Estate Manager

SUBJECT: Stevedoring Services of America (Tacoma) Fourth Lease Amendment

A. ACTION REQUESTED

Request Managing Members of the Northwest Seaport Alliance (NWSA) authorization for the Chief Executive Officer or their delegate to execute the Fourth Amendment to the Stevedoring Services of America (Tacoma) (SSAT) Lease at the West Sitcum Terminal.

B. SYNOPSIS

SSAT has requested that NWSA clarify that the Pumps included in the Stormwater Treatment System at the West Sitcum Terminal are SSAT's responsibility to maintain to fully comply with their Industrial Stormwater General Permit. NWSA staff has negotiated the attached 4th Amendment to the SSAT Lease to fulfill this request.

C. BACKGROUND

When the SSAT Lease for the West Sitcum Terminal was originally negotiated in 2017 "Infrastructure" was defined as including "Pumps". The Lessor is responsible to maintain "Infrastructure". The Lessee is responsible for Maintaining the Stormwater Treatment system. Due to an oversight at the time, the Stormwater Treatment System Pumps were not excluded from the "Infrastructure" definition. This 4th Lease Amendment is intended to exclude "Pumps" from the "Infrastructure" definition and clearly call out that the Lessee is responsible to maintain the entire Stormwater Treatment System including the "Pumps".

D. FINANCIAL IMPLICATIONS

The Alliance has incurred an average of \$18,000 of maintenance expense annually. The financial impact of the change of responsibility from the alliance to SSAT is positive and very minimal.

E. ALTERNATIVES CONSIDERED AND THEIR IMPLICATIONS

- **Recommended Action:** NWSA Staff recommends executing this 4th Amendment to the SSAT Lease to more specifically clarify that SSAT is responsible to maintain the entire Stormwater Treatment System (excluding pipes and conduits) to allow SSAT to comply with their Industrial Stormwater General Permit.

F. ENVIRONMENTAL IMPACTS / REVIEW

Permitting: No impact anticipated.

Remediation: No impact anticipated.

Stormwater: Allows SSAT to fully comply with their Industrial Stormwater General Permit.

Air Quality: No impact anticipated.

G. ATTACHMENTS TO THIS REQUEST

- SSAT Lease 4th Amendment

H. PREVIOUS ACTIONS OR BRIEFINGS

None

**FOURTH AMENDMENT
TO
LEASE AGREEMENT
BETWEEN
THE NORTHWEST SEAPORT ALLIANCE
AND
SSA TERMINALS (TACOMA), LLC**

This FOURTH AMENDMENT TO LEASE AGREEMENT ("Amendment"), dated _____, 2023, is made and entered into by and between THE NORTHWEST SEAPORT ALLIANCE, a Washington port development authority, as licensee/agent for the PORT OF TACOMA, a Washington municipal corporation ("Lessor"), and SSA TERMINALS (TACOMA), LLC, a Delaware limited liability company ("Lessee").

RECITALS

WHEREAS, NWSA as licensee/agent of the Port of Tacoma, as Lessor, and SSA Terminals (Tacoma), LLC, as Lessee, are parties to a Lease Agreement dated October 2, 2017 regarding premises located at 1002 Milwaukee Way, Tacoma WA 98421 (the "West Sitcum Terminal"), amended by a First Amendment To Lease Agreement Between The Northwest Seaport Alliance And SSA Terminals (Tacoma), LLC dated December 19, 2018 (the "First Amendment"), and amended by a Second Amendment To Lease Agreement Between The Northwest Seaport Alliance And SSA Terminals (Tacoma), LLC dated August 31, 2020 (the "Second Amendment"), and amended by a Third Amendment to Lease Agreement Between The Northwest Seaport Alliance And SSA Terminals (Tacoma), LLC dated August 16, 2022 (the "Third Amendment"), collectively the "Lease"; and

WHEREAS, the parties desire to further amend the Lease as set forth below;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

AGREEMENT

1. **Premises.** Effective May 1, 2023 Section 1.1.3.1 is deleted in its entirety and replaced with the below:

1.1.3.1 "Infrastructure" as used in this Lease means the pilings supporting the wharves on which those wharves repose, and any improvements of facilities beneath the asphalt cap, such as pipes, conduits, pumps (with the exception of pumps related to the stormwater treatment system), equipment or systems.

2. **Stormwater Treatment System Maintenance and Repair.** For the avoidance of doubt, the below Section 22.7 is added to the Lease effective May 1, 2023.

22.7 **Stormwater Treatment System Maintenance and Repair.** Maintenance and repair of the Stormwater Treatment System, specifically including, but not limited to subsurface pumps and associated control panels, is a Lessee responsibility at Lessee cost. Maintenance, repair and replacement of the Stormwater Treatment System's subsurface pipes, including blockage removal, remain the responsibility of Lessor. Inspection, cleaning, repair and replacement of the Tide Gates remains a maintenance responsibility of Lessor.

3. **Savings Clause.** Except to the extent expressly modified by the provisions of this Amendment, the Lease shall remain unchanged and in full force and effect according to its terms, and is hereby affirmed and ratified by Lessor and Lessee.
4. **Counterparts.** This Amendment may be executed in counterparts, each of which shall be regarded as an original and all of which together shall constitute one and the same agreement.

SIGNATURES ARE ON NEXT PAGE

LESSOR: THE NORTHWEST SEAPORT ALLIANCE
as licensee/agent for the Port of Tacoma

By: _____
John Wolfe, Chief Executive Officer
Date: _____

STATE OF WASHINGTON)
) ss
COUNTY OF PIERCE)

I certify that I know or have satisfactory evidence that _____ is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the _____ of THE NORTHWEST SEAPORT ALLIANCE to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: _____

(Signature)

(Printed Name of Notary)
Notary Public, in and for the State of Washington,
My Commission expires: _____

LESSEE: SSA TERMINALS (TACOMA), LLC

By: _____
Ed DeNike, Chief Operating Officer
Date: 4-19-2023

STATE OF WASHINGTON)
) ss
COUNTY OF KING)

I certify that I know or have satisfactory evidence that Ed DeNike is the person who appeared before me, and said person acknowledged that he/she signed this instrument, on oath stated that he/she was authorized to execute the instrument and acknowledged it as the COO of SSA TERMINALS (TACOMA), LLC to be the free and voluntary act of such party for the uses and purposes mentioned in the instrument.

Dated: April 19, 2023

Elizabeth A. Proctor
(Signature)

Elizabeth A. Proctor
(Printed Name of Notary)
Notary Public, in and for the State of Washington,
My Commission expires: 12-31-2023

