

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

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

**Item No.** 8A  
**Date of Meeting** May 4, 2021

**DATE:** April 23, 2021

**TO:** Managing Members

**FROM:** John Wolfe, CEO

**Sponsor:** Tong Zhu, Chief Commercial & Strategy Officer

**Project Manager:** Jennifer Maietta, Interim Director - Alliance Real Estate

**SUBJECT:** Second Reading - Pacific Maritime Association New Lease Agreement at Terminal 46

**A. ACTION REQUESTED**

Second Reading and request for the Managing Members of The Northwest Seaport Alliance (NWSA) to approve the Chief Executive Officer or their delegate to execute a new lease agreement with Pacific Maritime Association at Terminal 46.

**B. SYNOPSIS**

The Pacific Maritime Association (PMA) seeks to consolidate its regional training facilities to Terminal 46 for the purposes of developing a consolidated state of the art training facility for the purposes of conducting training and other services related to the Pacific Maritime Association's goals and objectives for longshore workers, clerks, foremen and casuals.

**C. BACKGROUND**

Terminal 46 was vacated by Total Terminals International LLC (TTI) as of December 31, 2019 and a Request for Proposals (RFP) for long-term uses was issued August 2019 which was then discontinued March 2020. While the terminal has been marketed for lease for marine cargo related uses, short-term interim uses have been active on the terminal primarily through the Foss Master License, including the Pacific Maritime Association (PMA). The term lease agreement with PMA will be the first term lease agreement for Terminal 46 since TTI vacated.

As an organization, the PMA's mission is to provide industry leadership to its member companies through innovative integrated labor relations, human resources and administrative services. The PMA membership consists of 70 ocean carriers and terminal operators who operate at the 29 West Coast Ports. The PMA is an integral part of the marine cargo industry providing on-going labor training which provides services supporting the NWSA gateway's customers and terminal operators.

The PMA has had a training facility at Terminal 5 since February 2018 under a sub-license through the Terminal 5 Foss Master License which expired January 2021 and, as of February 1, 2021, entered into a month-to-month lease agreement directly with the NWSA for this location. As the Terminal 5 re-development program progresses, PMA's location at Terminal 5 will become unavailable. Additionally, the PMA has a sub-license under the Terminal 46 Foss Master License for training purposes. The T46 Foss Master License due to terminate June 30, 2021 including its sublicenses. In order to maintain a training facility in the Seattle Harbor, the PMA's desires to enter into a long-term lease agreement for a single consolidated training facility located at Terminal 46. This consolidated training facility would primarily provide labor training to service the NWSA marine cargo operations within the Seattle Harbor.

The shipping industry is seeing an unprecedented surge in trade, which has the PMA interested in using the cranes located on Terminal 46 to conduct training. The cranes currently likely require repair, certification and maintenance to become and remain operable. The cranes were purchased by the Port of Seattle (POS) in 2020. Based on commissioner questions on this topic at the first reading of this proposed Lease, the parties have better clarified the language in the Lease regarding cranes. As more fully set forth below, the parties are agreeing to work together, and make good faith efforts to evaluate options for Lessee's use of one of the cranes. PMA is committing to this Lease even if use of a crane is ultimately not possible or otherwise cost prohibitive. At present, a consultant is on site to assess the cranes' condition and once complete, we will have a better idea of the cost of certifying and maintaining the cranes. Once associated costs for crane certification and maintenance are determined, the parties will then evaluate options for PMA's crane use. This lease does not obligate the NWSA, the Port of Seattle, or PMA in any manner relating to the cranes.

Also, during the first reading of this item, there were a number of questions regarding options for termination of this lease in the event that an alternate tenant proposes a capital improvement on the premises. The lease provides that in the NWSA's discretion, if NWSA requires the Premises for a major capital improvement for public or private use in connection with the operation of the business of Lessor, or needs to re-organize or use the Terminal, then the Lease may be terminated on One Hundred Twenty (120) days' notice. The lease specifies that in the event the

premises are reorganized or used by a tenant who proposes to make a major capital improvement, NWSA will work with PMA to attempt to relocate PMA's operations.

The standard insurance, indemnity, and attorneys' fees provisions in our North Harbor leases have been included in this lease. In addition to a mutual indemnity clause, Lessee will be required to maintain general liability coverage in the amount of \$5M/occurrence and \$10M/aggregate, and \$1M in automobile liability coverage, property coverage on a replacement cost basis and other insurance as required by the NWSA. On the liability policies, the Port of Seattle and NWSA are to be listed as additional insureds with the Lessee's policies as primary. Attorney's fees are recoverable by NWSA in the event of Lessee's default.

During the course of negotiations, PMA presented material changes to some base terms and conditions, which required additional time to work through between the parties. These base term revisions are summarized here and highlighted in bold and italicized font below in the Key Terms section. In summary, the base terms and conditions affected were 1) "Section 3.2.2 Market Rate," which now includes a cap of 5% on any market rate adjustment; 2) "Section 15.1 Major Capital Improvement; Change in Use," which now allows for relocation costs and expenses to be paid by the NWSA should the NWSA terminate the Lease for the purposes described in this section; and 3) "Section 19 Environmental Standards" which includes some changes to our standard environmental provisions aimed at primarily protecting Lessee from liability of potential prior hazardous substances from the past 5-years and additional indemnification language related to PMA.

#### **KEY TERMS**

<b><u>Premises:</u></b>	<ul style="list-style-type: none"><li>• Approximately 304,920 square feet (7 Acres) of yard space</li><li>• Approximately 500 square feet parking are for lashing training</li><li>• Approximately 6,000 square feet of office space located on the Second Floor of the Administration Building</li><li>• Approximately 430 square feet of space located on the First Floor of the Administration Building</li><li>• Approximately 3,000 square feet of space located on the first floor of the on dock Marine Operations Building</li></ul>
<b><u>Term:</u></b>	Ten (10) year term

<p><b><u>Base Rent:</u></b></p> <p>Subject to Leasehold Excise Tax currently 12.84%</p> <p>To be escalated annually by CPI</p>	<p><b>Yard Rate:</b></p> <ul style="list-style-type: none"> <li>• <u>On Terminal:</u> \$.30 psf/Mo. = \$91,476/Mo = \$1,097,712/Yr</li> <li>• <u>Lashing Training Area/Parking lot:</u> \$.30 psf/Mo. = \$150/Mo = \$1,800/Yr</li> </ul> <p><b>Building Rates:</b></p> <ul style="list-style-type: none"> <li>• <u>Administration Office:</u> Second Floor: \$18.00 psf/Yr = \$9,000/Mo = \$108,000/Yr First Floor: \$15.00 psf/Yr = \$537.50/Mo = \$6,450/Yr</li> <li>• <u>Marine Operations (on dock):</u> \$.75 psf/Mo Gross = \$2,250/Mo = \$27,000/Yr</li> </ul>
<p><b><u>Market Rate Adjustment:</u></b></p>	<p>Market rate adjustment to occur every 5 years at Lessor's discretion, otherwise shall increase by CPI annually, <b><i>but any market rate adjustment increase shall not exceed 5%.</i></b></p>
<p><b><u>Security Deposit:</u></b></p>	<p>Amount equal to Nine (9) months Base Rent, as adjusted, plus Leasehold Excise Tax.</p>
<p><b><u>Operating Expense:</u></b></p>	<p>Lessee responsible for pro-rata share, sub-metered or directly billed operating expenses to include, insurance, utilities, surface water management, repairs and maintenance and any expenses incurred by Lessor. Lessee responsible for its pro-rata share of Annual Operating Expenses for the Administration Building office space estimated at \$5.00 psf/yr to be reconciled annually.</p>
<p><b><u>Maintenance &amp; Repair:</u></b></p>	<p>Lessee shall be responsible for all maintenance and repair to the Premises, except that Lessor would be responsible for maintenance and repair to building infrastructure and core building operating systems of the Administration Building offices and parking area to be passed through to Lessee through Annual Operating Expenses.</p>

<b><u>Environmental:</u></b>	<p>Lessee to comply with all local, state, and federal environmental regulations as well as all NWSA and Port policies; and use Best Management Practices (“BMPs”) for stormwater pollution prevention.</p> <p><b><i>Note: Additional revisions in base lease protecting Lessee from liability of potential prior hazardous substances for the past 5-years and additional indemnification language related to PMA.</i></b></p>
<b><u>Tenant Improvements:</u></b>	<p>Tenant improvements to be completed at Lessee’s sole cost and expense subject to prior review and approval by Lessor.</p>
<b><u>Parking:</u></b>	<p>Lessor agrees to dedicate up to 30 parking stalls within a designated parking area to be determined on a site plan.</p>
<b><u>Other Cargo Equipment:</u></b>	<p>Lessee agrees to allow Lessor and/or its selected service providers access to Lessee’s equipment for the purposes of supporting cargo and other marine related business on the Terminal. Access and use of equipment to be coordinated with Lessee based upon its availability and would be operated by a selected service provider of the lessor. Commercially reasonable Rates, terms and conditions to be agreed to by both parties.</p>
<b><u>Cranes:</u></b>	<p>The Lessor, Port of Seattle, and Lessee (the “Interested Parties”) agree to work together, and make good faith efforts, to evaluate options for Lessee’s use of one of the cranes, and to determine what would be required for the crane to be operational such as certification and maintenance. The Interested Parties will determine associated costs for crane certification and maintenance and discuss whether an amendment to this Lease, or a separate crane use agreement is agreeable to the parties. Nothing in this section obligates any of the Interested Parties to execute any future amendments or use agreements relating to the cranes.</p>

<p><b><u>Improvements and/or Reorganization of Terminal:</u></b></p>	<p>In the event that Lessor, at its sole discretion, shall require the use of the Premises for a major capital improvement for public or private use in connection with the operation of the business of Lessor, or for re-organization or use of the Terminal or any part thereof for another use, then this Lease may be terminated by Lessor on 120 days' notice. <b><i>If terminated, Lessor shall relocate Lessee to within T46 or nearby space:</i></b></p> <ul style="list-style-type: none"> <li>• <b><i>That is of comparable size, configuration and utility to the Premises</i></b></li> <li>• <b><i>To be substantially the same terms and conditions as this Lease including the same rent structure</i></b></li> <li>• <b><i>Pay for Lessee's relocation costs if not within T46</i></b></li> <li>• <b><i>Reasonably provide Lessee with tenant improvements at least equal in quality to those in the Premises to the extent possible</i></b></li> </ul> <p><b><i>Lessee acknowledges that on-dock building facilities may not be included, but that a reasonable accommodation would be a mobile unit at Lessee's sole cost and expense</i></b></p>
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#### D. FINANCIAL IMPLICATIONS

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

This lease will provide approximately \$1.2 million in income per year. Assuming a 2.5% average annual inflation rate, the value of the ten-year agreement in 2021 dollars is \$9.7 million. The proposed lease terms provide a per acre rate slightly greater than current container terminal per acre lease rates, but consistent with improved industrial yard rates.

#### E. ALTERNATIVES CONSIDERED AND THEIR IMPLICATIONS

- **No Action Alternative:** The PMA would lose the ability to utilize the Terminal 5 location as the T5 re-development project progresses, the month-to-month license would be terminated, and the PMA would be required to relocate its office and training operations at T5 to an alternative location. The Terminal 46 sub-license under the T46 Foss Master license will terminate June 30, 2021 and the PMA would be required to relocate its yard training operations to an alternative location.

- **Recommended Action:** Request the Managing Members of The Northwest Seaport Alliance (NWSA) to approve the Chief Executive Officer or their delegate to execute a new lease agreement with Pacific Maritime Association at Terminal 46 in substantially the same form as presented.

**F. ATTACHMENTS TO THIS REQUEST**

- Lease Agreement



**Item No.: 8A**  
**Date of Meeting:** May 4, 2021

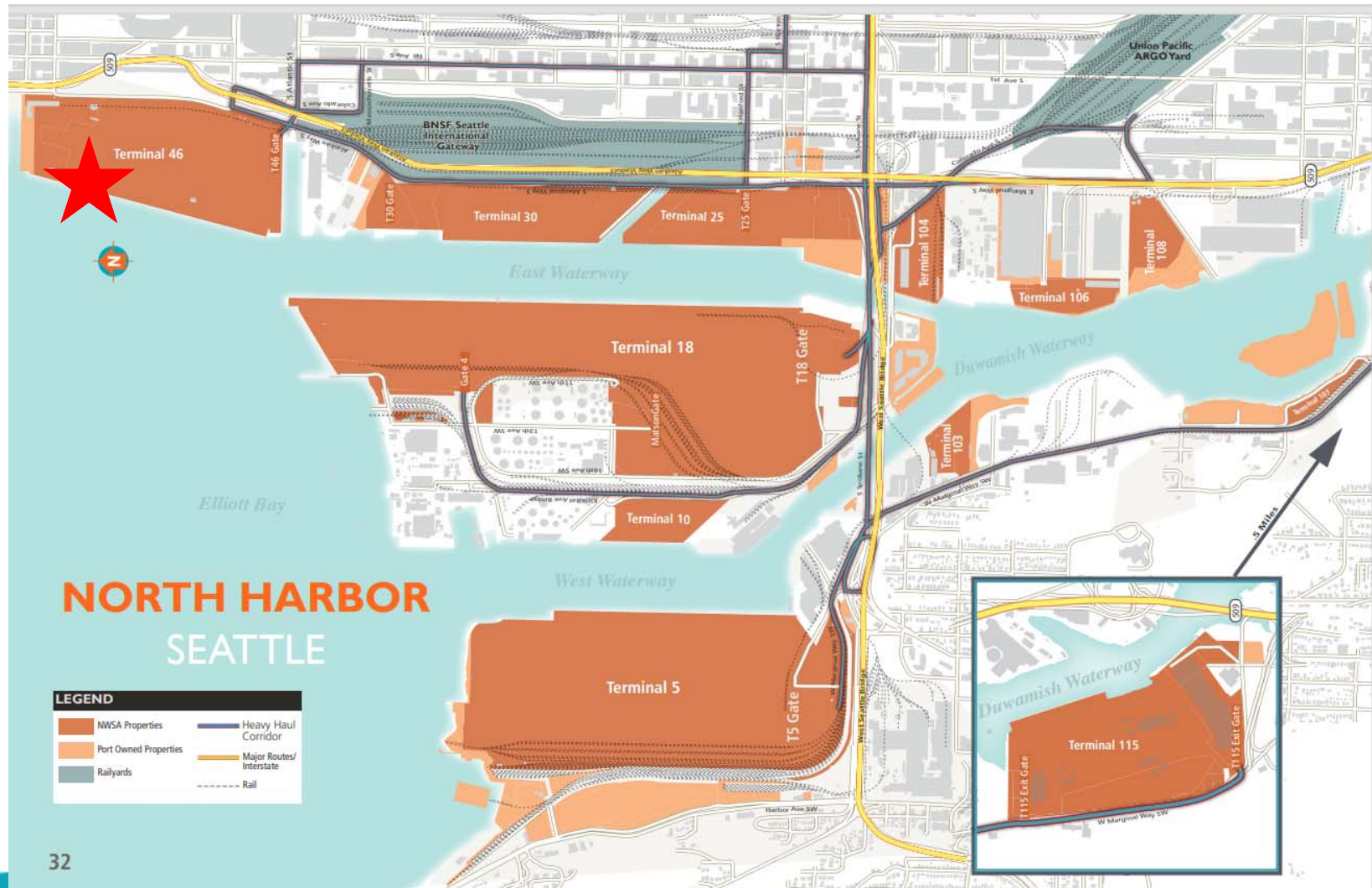
# **Terminal 46 - Pacific Maritime Association Term Lease – Second Reading**

Presenter: Jennifer Maietta  
Interim Director/Sr. Real Estate Manager

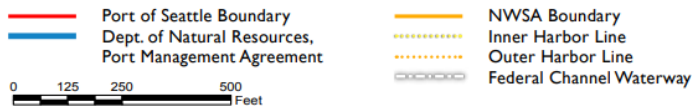
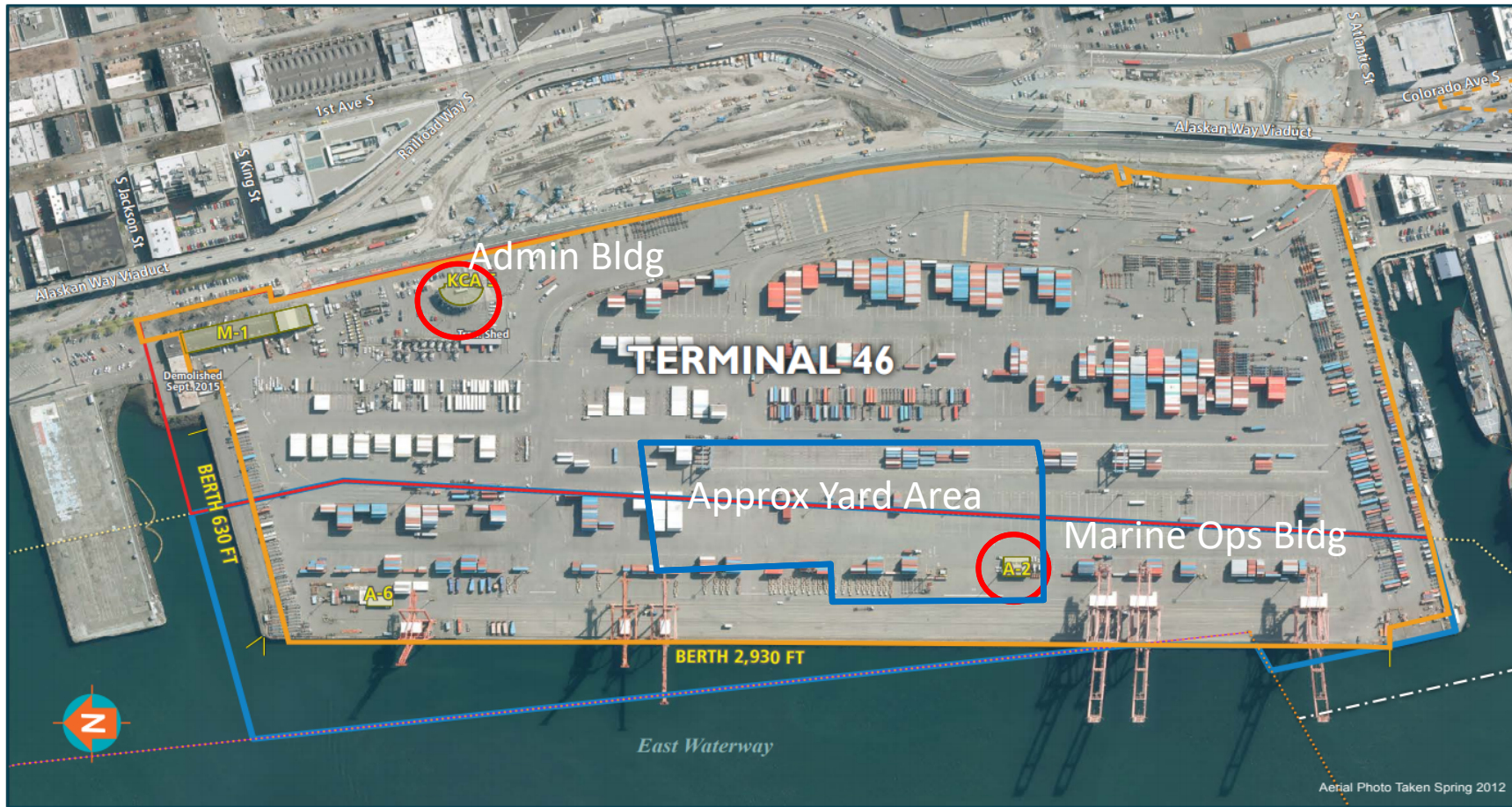
## Action Requested

Request Managing Members of The Northwest Seaport Alliance (NWSA) for authorization for the Chief Executive Officer or their delegate to execute a new lease agreement with Pacific Maritime Association at Terminal 46.

# Location



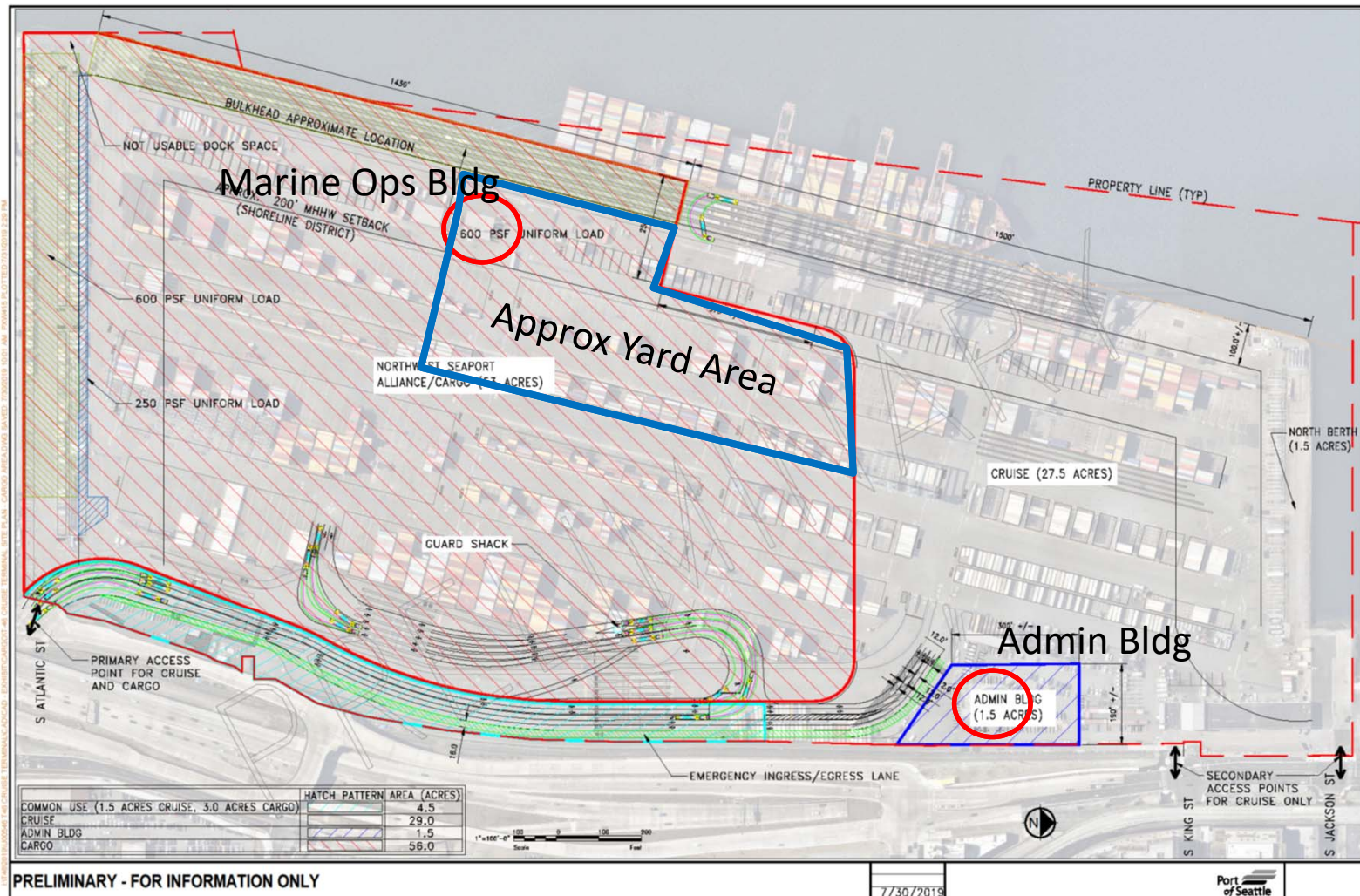
# Aerial Plan



**TERMINAL 46**

To be used for Conceptual purposes

# Site Plan – ILA



To be used for Conceptual purposes

# Background

- The Pacific Maritime Association (PMA) is looking to consolidate its regional training facilities to Terminal 46 for the purposes of developing a consolidated state of the art training facility for longshore workers, clerks, foremen and casuals.
- Terminal 46 was vacated by Total Terminals International LLC (TTI) as of December 31, 2019.
- An RFP for long-term uses was issued August 2019 which was then discontinued March 2020.
- Short-term interim uses have been active through the Foss Master License, including the Pacific Maritime Association (PMA).

# Background

- The PMA is an integral part of the marine cargo industry providing on-going labor training which provides services supporting the NWSA gateway's customers and terminal operators.
- The PMA has had a training facility at Terminal 5 since February 2018 and is currently under a month-to-month agreement, which will terminate as the Terminal 5 re-development project progresses.
- The PMA has a sub-license under the Terminal 46 Foss Master License for training purposes. The T46 Foss Master License is due to terminate June 30, 2021 which includes its sublicenses.
- In order to maintain a training facility in the Seattle Harbor, the PMA's desires to enter into a long-term lease agreement for a single consolidated training facility located at Terminal 46.

# Background

- The shipping industry is seeing an unprecedented surge in trade, which has the PMA is interested in using the cranes located on Terminal 46 to conduct training.
- Port of Seattle (POS) purchased the cranes in 2020 with the intent of using them for training and other potential operations.
- PMA is interested in using one of the cranes for training purposes.
- The cranes likely require repair, certification and maintenance to become and remain operable for these purposes.
- The parties (PMA, POS & NWSA) will be working towards an solution and may later amend this agreement to address PMA's crane use and terms for same.
- This lease is independent of any future crane use agreement.

# Additional Clarification

- Crane Assessment:
  - This lease agreement does not specifically guarantee nor state that a crane will be operational, certified and maintained, but that the NWSA, POS and PMA will work towards an agreeable feasible solution.
  - The Port of Seattle, the owner of the cranes, recently completed an assessment of the cranes estimating the cost of the required repairs for each crane, certification and on-going maintenance costs.
  - This assessment will be used to formulate an agreeable plan outlining responsibilities for repairs, maintenance and use of one of the cranes for PMA training purposes.
  - The agreed upon path forward may require an amendment to this lease agreement and/or a separate agreement depending upon the findings.

# Additional Clarification

- Insurance:
  - The standard insurance, indemnity, and attorneys' fees provisions in our North Harbor leases have been included in this lease.
  - In addition to a mutual indemnity clause, Lessee will be required to maintain general liability coverage in the amount of \$5M/occurrence and \$10M/aggregate, and \$1M in automobile liability coverage, property coverage on a replacement cost basis and other insurance as required by the NWSA.
  - On the liability policies, the Port of Seattle and NWSA are to be listed as additional insureds with the Lessee's policies as primary.
  - Attorney's fees are recoverable by NWSA in the event of Lessee's default.

# Negotiated Changes to Base Lease Terms & Conditions

- “Section 3.2.2 Market Rate,” which now includes a cap of 5% on any market rate adjustment
- “Section 15.1 Major Capital Improvement; Change in Use,” which now allows for relocation costs and expenses to be paid by the NWSA should the NWSA terminate the Lease for the purposes described in this section
- “Section 19 Environmental Standards” has modified some of standard language primarily to protect Lessee from liability of potential prior hazardous substances from the past 5-years and additional indemnification language related to PMA.

# Key Terms

Term	Description
<b>Premises:</b>	<ul style="list-style-type: none"><li>• Approximately 304,920 square feet (7 Acres) of yard space</li><li>• Approximately 500 square feet parking area for lashing training</li><li>• Approximately 6,000 square feet of office space located on the Second Floor of the Administration Building</li><li>• Approximately 430 square feet of space located on the First Floor of the Administration Building</li><li>• Approximately 3,000 square feet of space located on the first floor of the on dock Marine Operations Building</li></ul>
<b>Term:</b>	Ten (10) year term

# Key Terms

Term	Description
<b>Base Rent:</b>  Subject to Leasehold Excise Tax currently (12.84%)  To be escalated annually by CPI	<b>Yard Rate:</b> <ul style="list-style-type: none"> <li>• <u>On Terminal:</u>  <math>\\$.30 \text{ psf/Mo} = \\$91,476/\text{Mo} = \\$1,097,712/\text{Yr}</math> </li> <li>• <u>Lashing Training Area (Parking lot):</u>  <math>\\$.30 \text{ psf/Mo} = \\$150/\text{Mo} = \\$1,800/\text{Yr}</math> </li> </ul> <b>Building Rates:</b> <ul style="list-style-type: none"> <li>• <u>Administration Office:</u>            Second Floor: <math>\\$18.00 \text{ psf/Yr} = \\$9,000/\text{Mo} = \\$108,000/\text{Yr}</math>            First Floor: <math>\\$15.00 \text{ psf/Yr} = \\$537.50/\text{Mo} = 6,450/\text{Yr}</math> </li> <li>• <u>Marine Operations (on dock):</u>  <math>\\$.75 \text{ psf/Mo Gross} = \\$2,250/\text{Mo} = \\$27,000/\text{Yr}</math> </li> </ul>

# Key Terms

Term	Description
<b>Market Rate Adjustment:</b>	<ul style="list-style-type: none"> <li>Market rate adjustment to occur every 5 years at Lessor's discretion, otherwise shall increase by CPI annually <b><i>but any market rate adjustment increase shall not exceed 5%.</i></b></li> </ul>
<b>Security Deposit:</b>	<ul style="list-style-type: none"> <li>Nine months (9) base rent plus LET</li> </ul>
<b>Operating Expense:</b>	<ul style="list-style-type: none"> <li>Lessee responsible for pro-rata share, sub-metered or directly billed operating expenses to include, insurance, utilities, surface water management, repairs and maintenance and any expenses incurred by Lessor.</li> <li>Lessee responsible for its pro-rata share of Annual Operating Expenses for the Administration Building office space estimated at \$5.00 psf/Yr to be reconciled annually.</li> </ul>
<b>Maintenance and Repair:</b>	<ul style="list-style-type: none"> <li>Lessee shall be responsible for all maintenance and repair to the Premises, except that Lessor would be responsible for maintenance and repair to building infrastructure and core building operating systems of the Administration Building offices and parking area to be passed through to Lessee through Annual Operating Expenses.</li> </ul>

# Key Terms

Term	Description
<b>Insurance:</b>	<ul style="list-style-type: none"> <li>• General liability coverage in the amount of \$5M/occurrence and \$10M/aggregate</li> <li>• \$1M in automobile liability coverage</li> <li>• Property coverage on a replacement cost basis</li> </ul>
<b>Environmental:</b>	<p>Lessee to comply with all local, state, and federal environmental regulations as well as all NWSA and Port policies; and use Best Management Practices (“BMPs”) for stormwater pollution prevention.</p> <p><b><i>Note: Additional revisions in base lease protecting Lessee from liability of potential prior hazardous substances for the past 5-years and additional indemnification language related to PMA.</i></b></p>
<b>Tenant Improvements:</b>	Tenant Improvements to be completed at Lessee’s sole cost and expense subject to prior review and approval by Lessor.
<b>Parking:</b>	Lessor agrees to dedicate up to 30 parking stalls within a designated parking area.

# Key Terms

Term	Description
<b>Other Cargo Equipment:</b>	<ul style="list-style-type: none"><li>• Lessee agrees to allow Lessor and/or its selected service providers access to Lessee's equipment for the purposes of supporting cargo and other marine related business on the Terminal.</li><li>• Access and use of equipment to be coordinated with Lessee based upon its availability to be operated by stevedoring company or other service provider as required.</li><li>• Commercially reasonable Rates, terms and conditions to be agreed to by both parties.</li></ul>

# Key Terms

Term	Description
<b>Cranes:</b>	<ul style="list-style-type: none"><li>• Port of Seattle owns three (3) ZPMC cranes located on the terminal.</li><li>• The Lessee would like to enter into an agreement for use of one (1) of the cranes for the purposes of marine cargo labor related training.</li><li>• NWSA, POS, and PMA agree to evaluate options for PMA's use of one of the cranes, and to determine what would be required for the crane to be operational such as certification and maintenance.</li><li>• The Parties will later determine options for PMA's use of the cranes.</li><li>• Nothing obligates any of the Parties to execute any future amendments or use agreements relating to the cranes.</li></ul>

# Key Terms

Term	Description
Improvements and/or Reorganization of Terminal:	<p>In the event that Lessor, at its sole discretion, shall require the use of the Premises for a major capital improvement for public or private use in connection with the operation of the business of Lessor, or for re-organization or use of the Terminal or any part thereof for another use, then this Lease may be terminated by Lessor on 120 days' notice. <b><i>If terminated, Lessor shall relocate Lessee to within T46 or nearby space:</i></b></p> <ul style="list-style-type: none"><li>• <b><i>That is of comparable size, configuration and utility to the Premises</i></b></li><li>• <b><i>To be substantially the same terms and conditions as this Lease including the same rent structure</i></b></li><li>• <b><i>Pay for Lessee's relocation costs if not within T46</i></b></li><li>• <b><i>Reasonably provide Lessee with tenant improvements at least equal in quality to those in the Premises to the extent possible</i></b></li><li>• <b><i>Lessee acknowledges that on-dock building facilities may not be included, but that a reasonable accommodation would be a mobile unit at Lessee's sole cost and expense</i></b></li></ul>

# Financial Implications

- The proposed lease will provide approximately \$1.2 million in revenue per year
- The total value of the 10-year lease is approximately \$9.7 million (NPV)
- The proposed container yard lease rate is slightly higher than current container terminal rates, but consistent with improved industrial yard rates.
- There are no investments required for this lease.

# Alternatives Considered and Their Implications

- **No Action Alternative:** The PMA would lose the ability to utilize the Terminal 5 location as the T5 re-development project progresses, the month-to-month license would be terminated, and the PMA would be required to relocate its office and training operations at T5 to an alternative location. The Terminal 46 sub-license under the T46 Foss Master license will terminate June 30, 2021 and the PMA would be required to relocate its yard training operations to an alternative location.
- **Recommended Action:** Request Managing Members of The Northwest Seaport Alliance (NWSA) to approve a ten-year lease agreement with the Pacific Maritime Association at Terminal 46 for the purposes of developing a training facility for training labor to service the NWSA marine cargo business operations within the Seattle Harbor.

## Action Requested

Request Managing Members of The Northwest Seaport Alliance (NWSA) for authorization for the Chief Executive Officer or their delegate to execute a new lease agreement with Pacific Maritime Association at Terminal 46 in substantially the same form as presented.