

COMMISSION AGENDA

Item No: 5C

Meeting: 12/20/18

DATE: December 5, 2018

TO: Port Commission

FROM: John Wolfe, Chief Executive Officer

Sponsor: Tong Zhu, Chief Commercial Officer & Chief Strategy Officer
Project Manager: Scott Francis, Director of Real Estate, Port of Tacoma

SUBJECT: Purchase & Sale Agreement
13120 Tilley Road SW, Unincorporated Thurston County, WA 98512

A. ACTION REQUESTED

Request Commission approval of:

- 1) The Purchase and Sale Agreement (PSA) dated December 6, 2018 with NorthPoint Development, LLC (Buyer) to sell portions of Sections 1, 2, 3, 11 and 12 of Township 16 North, Range 2 West, W.M., Thurston County Tax Parcel Number 12602340100, located at 13120 Tilley Road SW, Unincorporated Thurston County, Washington, and authorize the Chief Executive Officer or his designee to execute any and all additional documents and take any and all additional actions necessary or required in connection with the completion of the sale, consistent with the PSA, and;
- 2) Commission determination that the Port's Master Policy condition to confirm the property's market value via two appraisals prior to the sale is satisfied based on the receipt of multiple offers in response to a multi-year Requests For Offers to Purchase the subject property, which serves as real time evidence that this proposed purchase of the site satisfies the test for market value.

B. BACKGROUND

- On July 28, 2006, the Port of Tacoma purchased approximately 745 acres of land located at 13120 Tilley Road SW in Unincorporated Thurston County, WA for \$21,250,000.
- On January 22, 2009 the Port of Tacoma Commission approved Resolution 2009-01, amending the Comprehensive Scheme of Harbor Improvements to divest these 745 acres of property in Thurston County.
- On March 18, 2010 the Port of Tacoma Commission approved Resolution 2010-04, approving this 745-acre parcel for surplus and authorizing this property for sale.
- The Port initially sold the property in April 2010 to Maytown Sand & Gravel, LLC. Maytown Sand & Gravel was unable to perform its agreement with the Port, and relinquished the Property back to the Port on October 7, 2013.
- The Port initiated a Request For Offers to Purchase (RFOP) the property on October 17, 2013. This RFOP was active to receive responses until November 15, 2018.
- Multiple RFOPs were received; the NorthPoint Development proposal represents the best value and is the current front runner for which Staff recommends approval. The remaining RFOP responses remain in back-up offer status until actual closing.

C. EXPLANATION OF MARKET VALUE FINDING

State law requires the two appraisals ONLY for sale of properties which are in an IDD (Industrial Development District), covered by RCW Chapter 53.25.¹

There is no such requirement in state law for sale of properties NOT in an IDD (sales of properties outside of an IDD are addressed in RCW 53.08).

The heightened requirement for IDD lands, is because the state IDD statutes allows port purchase of marginal lands via tax dollars and also to acquire lands from the County in lieu of tax foreclosure. Granted all port dollars are public dollars, but the state found that where these special IDD RCW 53.25 public processes were used to acquire the property, there is a heightened need to assure the public that it is getting a good return on any sale of IDD property.

Through the adoption of the Master Policy, the Port has self-imposed the two-appraisal requirement for sales of ALL properties, per Master Policy Section III. G (1)(b):

(b) Per RCW 53.25.140 the sale price must not be less than fair market value of the property which shall be determined by an average of at least two independent appraisals performed by licensed real estate brokers or professionally designated real estate appraiser as defined in RCW 74.46.020.

The state law requirement for two appraisals pursuant to RCW 53.25140 clearly does not apply to this property, because it is not located within an Industrial Development District. Because the two-appraisal requirement is not embedded in state law, the Commission is authorized to accept other, comparable methods to determine the sale price meets the test for market value.

Here the policy intent of ensuring this property is sold at a value of at least market value is satisfied because the market was tested by the recent issuance of the RFOP, and the Port's receipt of multiple offers for the site. By this competitive process, the Port tested the market, received multiple offers based on the value willing buyers would pay for the property, and has presented for Commission approval the best of those multiple proposals.

¹ Chapter 53.25 RCW -INDUSTRIAL DEVELOPMENT DISTRICTS—MARGINAL LANDS

RCW 53.25.140-Action on determination—Sale by competitive bid or negotiation.

If the determination is against the sale, all proceedings thereon shall terminate. If the commission determines in favor of the sale by at least a two-thirds vote of the full commission, it shall in its discretion, either enter an order fixing a period, not less than twenty nor more than thirty days from the date of the order, during which bids will be received for the property or any part thereof, and give notice thereof in the same manner as for the hearing on the proposal to sell or negotiate the sale with an appropriate purchaser, provided that in any such negotiated sale the purchase price must not be less than the fair market value of the property which shall be determined by an average of at least two independent appraisals performed by licensed real estate brokers or professionally designated real estate appraisers as defined in *RCW 74.46.020. Whether the property is sold by competitive bidding or negotiation, other real property conveyed by the purchaser to the commission may constitute all or a portion of the consideration for the sale.

D. TIMEFRAME/PROJECT SCHEDULE

- Feasibility Period – 180 days from mutual acceptance.
- Closing – on or before December 20, 2019.

E. PURCHASE TERMS/FINANCIAL SUMMARY

- Sale Price: \$24,860,000
- Earnest Money: \$500,000
- Feasibility Period: 180 days.
- Broker Commission:
 - 2.5% on the first \$3 Million of sale price.
 - 1% on the sale price over \$3 Million.
- Closing Fees: Port pays for title policy. Port and Buyer each pay half of escrow fees.
- Closing Date: On or before 12/20/19.

F. ECONOMIC INVESTMENT / JOB CREATION

The development of this property after the sale closing will produce new local Thurston County jobs.

G. NEXT STEPS

Upon Commission approval, the Chief Executive Officer or his designee will execute any and all documents and take any and all additional actions necessary or required in connection with the completion of the sale, consistent with the Commission-approved PSA.