

Request for Commission Authorization to Commence Litigation



ACTION REQUEST



- ❖ That Commission authorize the Port's Chief Executive Officer or designee to commence litigation to enforce terms of a Temporary Easement and recover damages
- ❖ Action is based on Temporary Easement dated July 27, 2005 between Port of Tacoma and Sonatore Port Holdings, LLC (Grantee) for use of the privately owned portion of Marc Avenue lying southerly from Lincoln Avenue (Tax Parcel No. 0320031019) in Pierce County WA.

WHY WE ARE HERE



- ❖ Under the most recently amended Master Policy Delegation of Authority Resolution, Commission authorization is required for the Port to initiate litigation as a party Plaintiff.
- ❖ The expected costs are within the limits of the CEO's delegated authority.

BASIS FOR THE REQUESTED LITIGATION AUTHORIZATION



The Port maintains that Grantee has:

- Failed to pay amounts due under the terms of the easement,
- Failed to maintain the roadway as the temporary easement required, and
- Caused flooding and or discharges off its property onto roadways causing damages.



BASIS FOR THE REQUESTED LITIGATION AUTHORIZATION



- ❖ The Port's attempts at negotiated compliance have been unsuccessful.
- ❖ The Port terminated the Temporary Easement on March 1, 2017, and now seeks authorization to pursue legal remedies in court.

ENVIRONMENTAL IMPACTS/REVIEW



- ❖ The Port believes that claims exist against Grantee including unlawful stormwater discharges, waste disposal, trespass and failure to maintain the roadway, creating a stormwater problem on Marc Street.

NEXT STEPS



- ❖ Upon Commission approval of the requested action, the Port through its CEO & Legal Counsel will pursue available legal remedies, pursuant to the terms of the temporary easement and Washington law.