

COMMISSION AGENDA

Item No: 5D

Meeting: 10/20/22

DATE: October 4, 2022
TO: Port Commission
FROM: Eric Johnson, Executive Director
Project Manager: Scott Francis, Real Estate Director
SUBJECT: 5108 Marine View Drive Lease First Amendment and Termination

A. ACTIONS REQUESTED

Request Commission approval of:

1. First Amendment to a Marine View Drive lease between the Port and Steve and Mary Shelton to allow for lease termination and reimbursement of tenants' improvements to the house for a flat rate of \$50,000.
2. Waive the second reading, which is otherwise required for Port of Tacoma lease approvals pursuant to Commission Master Policy on Delegation of Authority, Section III. B2.

B. BACKGROUND

In December 2005 the Port purchased a 17-acre Marine View residential property for \$2.75 million. The property was purchased with the long-term intent of conducting habitat restoration and developing public access to Commencement Bay.

At the time of the 2005 purchase, 10 houses were located on the property. One house was owned and leased by the Port. The remaining nine houses were owned as personal property of the Port's land lease tenants. The Port collected land rents on the land under each house via carry-over month-to-month leases from the previous owner.

The Port and house owners had regular discussions between 2008-2012 regarding the land leases and the future use of this property. In 2012, in response to house owners' request for long-term leases, the Port established a lease or buyout program. Per that program, the Port, with Commission approval, offered new lease agreements for each house that met State Auditor requirements and also the Port's long-term property use.

The 2012 Leases accomplished the following benefits:

- Established rents at market rate
- Established new leases utilizing the Port's approved lease and better protected the Port with adequate insurance and indemnification language
- Complied with State Auditor requirements
- Established a known plan and process for house owners

The 2012 Leases also included a buyout provision to those tenants who chose to terminate their lease by November 15, 2013. Some tenants exercised the buyout option and some accepted the longer-term lease.

The house at 5108 Marine View Drive leased by the Shelton's is unique in that both the land and the house are owned by the Port. The lease includes a Lessor Purchase of Improvements provision that allows the Port to terminate the lease with a 12-month advance notice and compensation to the Shelton's for the current value of the house attributed by their improvements to the property.

Recently, the Shelton's approached the Port with a proposal to terminate the Lease no later than November 1, 2022 and modify the reimbursement of improvements provision to allow for a flat fee payment for improvements of \$50,000. The proposed First Amendment to the Lease accomplishes this requested action.

C. NEXT STEPS

Upon Commission approval, the Port and Shelton's will execute the First Amendment to the Lease. The Lease will terminate by November 1, 2022, and the Port will pay the Shelton's \$50,000 for house improvements upon the Port's confirmation that the Shelton's have vacated the property.