

**AGREEMENT REGARDING
WIDENING OF BLAIR WATERWAY
("BLAIR CUTBACK AGREEMENT")**

This Agreement Regarding Widening Of Blair Waterway ("Blair Cutback Agreement" or "Agreement") is made and entered into this 22 day of April, 2008, by and between the PORT OF TACOMA, a Washington port district ("Port"), the PUYALLUP TRIBE OF INDIANS, a federally-recognized Indian tribe ("Tribe"), MARINE VIEW VENTURES, INC. ("MVV"), a tribal corporation created by the Tribe, and SSA CONTAINERS INC. ("SSA"). The Port, the Tribe, MVV, and SSA are each referred to as a "Party" and are collectively referred to as the "Parties".

WHEREAS, the Port, the Tribe, MVV, and SSA are parties to a Memorandum Of Intent effective February 14, 2008 ("Memorandum Of Intent"), regarding certain land cooperation agreements contemplated between the Parties, including the widening of the Blair Waterway set forth in this Agreement; and

WHEREAS, pursuant to and in accordance with the Memorandum Of Intent, and in contemplation of all agreements described in the Memorandum Of Intent being contemporaneously executed and thereafter fully and faithfully performed by the parties thereto, each Party wishes to enter into and perform the elements of the Blair Cutback to be performed by such Party as described in this Agreement;

NOW, THEREFORE, in consideration of the terms and conditions of this Agreement, and the mutual promises and covenants herein, the Parties hereby agree as follows:

1. **Blair Widening.** SSA, as part of its terminal development on the Blair Waterway, will widen the Blair Waterway in the area abutting Berths One through Three, as indicated on Exhibit A (the "***Blair Cutback***"). The Blair Cutback will be performed so that it will enable construction of a pier capable of berthing ships having a total aggregate length of approximately three thousand three hundred (3,300) feet and having a depth following completion of minus fifty-one (51) feet at Mean Lower Low Tide at the water's edge of the pier. The Blair Cutback will also result in a minimum of eight hundred fifty (850) feet of separation, fender to fender, from the new pier at Berths One through Three to the existing pier on the Washington United Terminal on the opposite side of the Blair Waterway.

2. **Payment of Dredge and Disposal Costs by Port.** Upon completion by SSA of its portion of the Blair Cutback as described above, the Port will pay to SSA an amount equal to that portion of the reasonable dredge cost, which will include the cost of the dredging and the disposal of the dredged materials, to complete the Blair Cutback from approximately six hundred fifty (650) feet of separation to the finished cutback (a minimum of eight hundred fifty (850) feet of separation). The reasonable dredge and disposal costs to be paid by the Port shall be based on the least cost alternative for disposal of the material; however, if the Port uses any portion of the material for any

purpose, the Port will pay for the actual costs for placing the amount of material used by the Port at the site directed by the Port. Thus, if the Port will use the material at its Marine View Drive site, in addition to the dredge cost, the Port will pay for the costs to place the materials at such site. Alternatively, if the Port will not use the material at its Marine View Drive site and SSA desires to use the material as fill in its terminal development, and the material is suitable and approved for such use, but open-water disposal of the material would be less costly, then the dredging and disposal cost to be paid by the Port shall be limited to the cost of dredging the material and costs for open water disposal, but only to the extent that there is available capacity for the disposal of the dredge sediments at a designated open water disposal site.

3. **Payment of Other Costs.** Dredging and disposal costs to be paid by the Port will also include reimbursement to SSA for the costs related to characterization of dredged materials necessary to permit beneficial reuse or open water disposal of the material by the Dredged Material Management Program (DMMP) Agencies. Characterization and DMMP permitting requirements (including DMMP approved Sampling and Analysis Plan, DMMP negotiations, chemical characterization, data evaluation and report preparation) is required by the Port to support the Port's proposed end use for the material. SSA will be responsible for costs of the geotechnical work and design work required for the Blair Cutback.

4. **Information to be Provided by SSA.** SSA shall provide copies of all bids, contracts, pre-dredge survey, and cost data regarding the Blair Cutback to the Port prior to commencement of dredging operations. SSA shall also provide copies of dredge disposal logs on a weekly basis, a summary of dredge disposal volumes each month, and a post-dredge survey within thirty (30) days from completion and final acceptance of the project. The Port shall have the right to audit at the Port's cost all records of SSA and the contractor(s) related to such project at the office(s) of SSA and the contractor(s) where such records are kept.

5. **Disposal of Dredged Material.** Subject to the provisions of this Section 5, the Port shall have the right to determine and direct, in the Port's sole discretion, the location(s) for disposal of the dredged materials from that portion of the Blair Cutback to be paid for by the Port, including placement on Tribe land adjoining the Blair Cutback; provided, however, that SSA and the Tribe agree to accept portions of the excavated or dredged materials from the portion of the Blair Cutback to be paid for by the Port for use as fill on Berths One through Three and the backup areas to those berths and the Berth Four Area so long as the fill is environmentally and geotechnically acceptable to each party, and so long as the use of such fill complies with all existing applicable consent decrees, agreements and administrative orders, and any applicable environmental law. SSA shall provide engineering estimates for the maximum amount of fill that it can absorb in the development of its terminal facilities (at Berths One through Three and backup area to Berths One through Four) and agrees to accept that amount of environmentally and geotechnically acceptable fill from the Blair Cutback. The performance of the Blair Cutback will not affect any warranties or indemnifications by the Port included in the Land Settlement Agreement of 1988 to which the Tribe and Port are parties, and will be done in a manner that does not conflict with any applicable

consent decrees, orders or agreements, or any applicable environmental law. The management and disposal of contaminated material on lands previously transferred from the Port to the Tribe pursuant to the Land Settlement Agreement of 1988 remains as provided for by that agreement, and is outside the scope of this Agreement.

6. Cooperation Between Parties.

6.1 Immediately upon execution of this agreement, SSA will begin the process with the DMMP agencies for characterization of the material to be dredged. SSA will meet and cooperate with the Port, the Tribe, and MVV regarding the contract for such work, the sampling plan, and the reports to be issued, such that the results of such work will satisfy the needs of the Parties under this Agreement. It is expected that within approximately four months after execution of this Agreement, the resultant characterization data will be available for Port and Tribe review.

6.2 No later than sixty (60) days following receipt of characterization data for the dredged material the Port shall provide written notice to the Parties of its intended location(s) for disposal of the dredge material from the Blair Cutback. The Port will then immediately begin to seek the required approvals necessary to allow for the intended location to be able to receive the dredge materials. If the Port is unable to obtain the permits necessary to dispose of the dredged material at the Port's intended location by the expected start of construction for the SSA Project, then it will provide an alternate site so that the widening and cutback will be able to be completed as soon as SSA's permits are received for the SSA Project. After the Port has initially identified the intended disposal site, the Port may not thereafter change the designated location(s) for disposal of the dredge material in a manner that affects SSA's design or construction of its terminal on the Blair Waterway (e.g., by adding to or subtracting from the amount of material to be placed on such site) except by mutual agreement of the Parties.

6.3 If the Port intends to dispose of dredged material on any portion of Berths One through Three or backup areas to Berths One through Four, the Tribe, MVV, and SSA shall have fifteen (15) days after receiving the Port's notice that it intends the material to be disposed of on that property to determine whether 1) the fill the Port proposes to place on any portion of Berths One through Three and backup areas to Berths One through Four is environmentally and geotechnically acceptable to each party, and 2) the use of such fill complies with all existing applicable consent decrees, agreements, administrative orders, and environmental laws.

7. **Dispute Resolution.** Any disputes between the Port and SSA under this Agreement shall be resolved pursuant to Section 23(u) (Resolution of Disputes) of the Lease And Operating Agreement between the Port and SSA dated April 22, 2008.

8. **Termination of SSA Lease / Development by Tribe or MVV.** If the agreements between SSA and MVV or the Port for development and operation of a marine terminal by SSA on the Blair Waterway are terminated prior to SSA initiating the Blair Cutback, then SSA shall be relieved of its rights and obligations regarding the Blair Cutback. However, if at any time the Tribe, MVV, or any other person or entity develops

all or a portion of the same property, then the Tribe, MVV, or such other person or entity shall perform the Blair Cutback pursuant to the same terms and conditions set forth in this Agreement, including but not limited to the cost reimbursement provisions, and the provisions of this Agreement shall apply to such person or entity the same as they would have applied to SSA, except for the dispute resolution provisions of Section 7 above.

9. Waiver of Sovereign Immunity. The Tribe hereby enters into a limited waiver of its sovereign immunity from suit for the purpose, and only for the purpose, of allowing the other Parties to this Agreement to seek enforcement of the Tribe's responsibilities and obligations created by this Agreement. This waiver is effective only as to an action brought by the other Parties to this Agreement, only in Pierce County Superior Court and in the appellate courts of the State of Washington (and mediation or arbitration in Pierce County to the extent agreed to by the Tribe), and only for the relief of (a) specific performance of the Tribe's responsibilities and obligations created by this Agreement, including its financial obligations, and/or (b) declaratory judgment determining and declaring the Parties' responsibilities and obligations under this Agreement, and/or (c) enforcement of any order or judgment regarding any of the above. This limited waiver of the Tribe's sovereign immunity from suit shall expire upon the completion of the Parties' responsibilities and obligations created by this Agreement.

SIGNATURES APPEAR ON NEXT PAGE

THE PORT OF TACOMA

By: Richard Mangano

Title: Commissioner

Date: 4-22-08

THE PORT OF TACOMA

By: T. G. Hill

Title: Executive Director

Date: 4/22/08

PUYALLUP TRIBE OF INDIANS

By: Thomas Dillards

Title: Chairman

Date: 4/22/08

MARINE VIEW VENTURES, INC.

By: [Signature]

Title: CEO

Date: April 22nd 2008

JUDITH L. DOREMUS
Notary Public - State of Washington
My Appointment Expires
January 22, 2012

SSA CONTAINERS, INC.

By: K. B. Lis

Title: V. General Counsel

Date: 4/22/08

