

PORT OF SEATTLE
MEMORANDUM

COMMISSION AGENDA

Item No. 5d

ACTION ITEM

Date of Meeting March 26, 2013

DATE: March 19, 2013

TO: Tay Yoshitani, Chief Executive Officer

FROM: Kathy Bahnick, Manager, Seaport Environmental and Planning
Jon Sloan, Compliance & Strategy Manager, Seaport Environmental and Planning
Ticson Mach, Capital Project Manager, Seaport Project Management

SUBJECT: Site 23 (Terminal 117) & Site 25 Design of Public Access and Purchase of Floating Dock at South Park Marina

Amount of This Request: \$652,000

Source of Funds: Tax levy funds; Seaport General Fund, and settlement proceeds

Est. State and Local Taxes: N/A

Est. Jobs Generated: N/A

Total Site 23 & 25 Restoration Project Cost: TBD

Total Site 23 Public Access Viewpoint Pier Estimated Project Cost: \$2,919,000

ACTION REQUESTED:

Request Commission authorization for the Chief Executive Officer to: (1) purchase the southern portion of the South Park Marina float structure to accommodate habitat restoration at Site 23/25 in the estimated amount of \$194,000; and (2) complete permitting and design for a public access viewpoint pier at Site 23 for an estimated cost of \$458,000. The total amount of this request is \$652,000.

SYNOPSIS:

Site 23/25 Fish & Wildlife Habitat project has been proposed as a response to anticipated natural resource damage liability claims associated with sediment contamination in the Lower Duwamish Waterway Superfund site. The Commission authorized the design/permitting for the habitat project in June 2011. A component of the habitat restoration project includes public shoreline access features which will provide opportunities for environmental interpretation and stewardship. These features currently include a hand boat launch, walkways, and integrated artwork. The viewpoint pier, which is intended, as public access mitigation for Terminal 46, was not included in the June 2011 design/permitting authorization for the habitat project. To facilitate the habitat project, it is necessary to purchase and vacate a portion of a floating dock structure owned by the South Park Marina. The marina owner has agreed in principal to terms of an agreement which would allow the floating dock structure to be removed. Commission authorizations for both the floating dock purchase as well as design/permitting funds for the viewpoint pier are being requested

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This memo requests Commission approval for the following actions:

- 1) To execute an agreement with the South Park Marina to vacate portions of their southernmost dock/float structure and to accomplish the terms of the agreement to protect the Port's interests. The vacated area is necessary to allow space for habitat restoration and to promote a transition zone between restored areas and the marina channel. The Site 23 and 25 restoration project, including habitat restoration components, and public shoreline access are being undertaken by the Port for the purpose of offsetting Natural Resource Damage (NRD) liability. The estimated cost for the acquisition is \$194,000.
- 2) To complete permitting, and complete the design estimate in the amount of \$458,000 for the public access viewpoint pier at Site 23. The public access viewpoint pier is being undertaken for compliance with a City of Seattle Master Use Permit for Terminal 46 (DPD #2104377).

BACKGROUND:

At present, design and permitting activities are underway for the Site 23/25 habitat restoration project, which is located at and around the former Terminal 117 (T-117) property. This project is being designed to offset NRD liability associated with the Lower Duwamish Waterway Superfund site. The Site 23/25 habitat project design currently includes a small shoreline public access area at the north end of the site adjacent to the South Park Marina.

The South Park community has been actively engaged in the plans for the T117 site and, as part of its 2006 South Park Action Agenda, called out a site naming opportunity with local ties. In conjunction with the port's community outreach efforts, staff will work with the neighborhood to identify proposed names for the restoration and public access sites for future Commission consideration.

In addition, the Port is seeking to further enhance the public access opportunity at Site 23 by shifting a public access obligation from the Centennial Park fishing pier to Site 23. The Centennial Park fishing pier was constructed by the Washington Department of Fish and Wildlife (WDFW) in 1979-1980 using state grant funds. The Port provided design and approximately \$100,000 in additional funding. Subsequent to construction, the Port managed the day-to-day operations of the pier under a 30-year Memorandum of Agreement (MOA) with WDFW, which expired in May 2009.

Because of the Port's contractual interest and financial investment in the management of the fishing pier, the Port was allowed to claim the facility as a dedicated public shoreline access site required to support operations at Terminal 46 under the City's Shoreline Master Program (Shoreline Substantial Development and Master Use Permit #2104377). Because the MOA has expired, the Port has been in negotiations with City of Seattle Department of Planning and Development (DPD) to allow the transfer of the public access obligation to a new viewpoint pier at the Site 23/25 habitat restoration project site in the South Park neighborhood.

To allow sufficient space for both the habitat restoration and the new viewpoint pier, approximately 120 linear feet of South Park Marina's southernmost dock must be vacated. The Port has completed a financial analysis to estimate the value of the dock to the owner and an agreement has been reached to secure its purchase. An additional benefit of vacating the dock is that it will provide space

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for a launching area for hand-carry boats (e.g., canoes, kayaks, etc.) as part of the public shoreline access components proposed for the habitat restoration project.

PROJECT DESCRIPTION AND JUSTIFICATION:

Design and permitting for the Site 23 and 25 restoration project has previously been approved. The purpose of this request is acquisition of a portion of the South Park Marina's floating structure, and to complete the design and permitting for the viewpoint pier. Staff will come back to Commission to request authorization to construct the designed habitat and public access viewpoint pier.

The viewpoint pier, which will be used as a dedicated public access site to support operations at Terminal 46, will be ideally located in the South Park neighborhood, an underserved community lacking adequate shoreline public access. Moreover, South Park is substantially more affected by the presence of maritime industrial activity in the Duwamish than neighborhoods in proximity of Centennial Park on Elliott Bay.

The Port Engineering Design Group will be the primary designer for the pier as well as the Site 23/25 habitat restoration project. The Port will continue its partnership with King County, which will provide technical support, review, and lessons learned from past projects.

PROJECT SCOPE OF WORK AND SCHEDULE:

- This project includes prior authorization for 100% design and permitting for habitat construction at Sites 23 and 25 (formerly called T-117 Expanded Habitat Area).
- The design criteria and permits will meet state, local, and federal construction permit requirements, and construction requirements for a site located within a federal Superfund area.
- Schedule milestones are represented below, subject to change depending on permits, scope changes, negotiations with NRD Trustees and unforeseen schedule delays. In addition, staff will continue to coordinate with the ongoing cleanup at T-117 as well as the City of Seattle Street and Yard Cleanup following the T-117 Cleanup, and adjust the construction of the restoration and pier as needed to minimize budget and community impacts.

	Start	Finish
Design	July 2012	May 2013
Permits	February 2013	December 2013
Construction	May 2014	March 2015

- Staff will return to Commission at a later date with a request for construction funding for both the Site 23/25 restoration project (Environmental Remediation Liability expense), and viewpoint pier (Seaport capital project).

STRATEGIC OBJECTIVES:

The overall project supports the Port's Century Agenda goal to "be the greenest and most energy efficient port in North America" through its objective to "restore, create and enhance 40 additional acres of habitat in the Green/Duwamish watershed and on Elliott Bay."

- Habitat restoration in the Duwamish corridor is viewed as a key component of salmon recovery efforts. Site 23/25 is located in the transitional zone where juvenile Chinook, chum, and other

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salmonids transition from freshwater to saltwater, making this a valuable area to increase habitat. The larger site provides the opportunity to create a larger and more diverse habitat complex with higher NRD value. Purchasing the South Park Marina float structure will result in a larger habitat site.

- Locating the public access viewpoint pier in underserved portions of the South Park neighborhood will provide access to the water where there is limited number of entry points to the river.
- The local community has expressed support of the pier and other public access features at the project location. Public outreach and incorporation of the critical elements from the result of that outreach are a valuable element of the design process. Furthermore, involving the community in site naming opportunities helps build community engagement and ownership of the site.

BUSINESS PLAN OBJECTIVES:

- Provide a cost effective method to stay in compliance to permit requirement for continue operation of Terminal 46.
- Realize cost savings for constructing the pier at the same site and time as the restoration project.

FINANCIAL IMPLICATIONS:

Budget/Authorization Summary

Site 23/25 Restoration

Previous Funds Authorized for Site 23/25 Restoration	\$3,302,000
Current request for authorization-Purchase price of southern portion of South Park Marina Float structure	\$194,000
Estimated Costs, including this request	\$3,496,000
Remaining budget to be authorized (<i>estimated construction cost</i>)	NA
Total Estimated Project Cost (<i>pending final design</i>)	TBD

Replace Terminal 46 Public Access Requirement from Pier 86 to Site 23

Previous Funds Authorized for Site 23 Viewpoint Pier	\$20,000
Current request for authorization	\$458,000
Total Authorizations, including this request	\$478,000
Remaining budget to be authorized (<i>estimated construction cost</i>)	\$2,441,000
Total Estimated Project Cost (<i>pending final design</i>)	\$2,919,000

Source of Funds

The acquisition of the South Park Marina floating dock structure was included as part of the 2013 costs for the Habitat Restoration project in the Commission's 2013 Environmental Remediation Liability (ERL) spending authorization, approved on December 4, 2012. The source of funds to pay for the overall costs for the Habitat Restoration project will be a combination of settlement funds the Port received in the July 30, 2008, settlement agreement with the City, King County and the Malarkey Parties and the tax levy.

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The estimated cost to implement the replacement Public Access Viewpoint Pier at Site 23 of \$2,919,000 was not included in the 2013 Seaport Plan of Finance because the project was not formulated at that time. The funds required for the project are available due to deferral of other projects included in the Plan of Finance such as the C800431 Dredge P90 East project. The source of funds will be the Seaport General Fund.

Financial Analysis Summary

CIP Category	Environment/Safety, Renewal/Enhancement
Project Type	Environmental Habitat, Regulatory
Risk adjusted Discount rate	Not applicable
Key risk factors	<ul style="list-style-type: none">• Costs to construct the Public Access Viewpoint Pier may increase if required work is more extensive than currently expected. The construction cost estimate will be refined during the design process.• Coordination with City of Seattle on issues such as street cleanup, stormwater outfalls, and power poles construction could increase costs.• City and State could reject the relocation of the public access site from the Centennial Park fishing pier to the Site 23 Public Access Viewpoint Pier.
Project cost for analysis	Purchase of South Park Marina Float Structure: \$194,000 Site 23 Public Access Viewpoint Pier: \$2,919,000
Business Unit (BU)	Terminal 117 for Habitat Restoration, Containers for Public Access Viewpoint Pier.
Effect on business performance	<ul style="list-style-type: none">• Costs related to the Habitat Restoration and offsetting settlement money have already been factored into Seaport's Environmental Remediation Liability Expense.• Incremental depreciation expense from the Public Access View Pier project is estimated at \$97,300 per year, based on a 30-year asset life. Net Operating Income (NOI) after depreciation will decrease by the depreciation amount.
IRR/NPV	Not applicable

ENVIRONMENTAL SUSTAINABILITY:

- The design team will make every effort to design the site so that the habitat is self-sustaining to the extent practical.
- The design team will employ NRD guiding principles and triple bottom line objectives to balance social, environmental and economic benefits and costs.
- Public outreach is being undertaken to ensure final product is one that will have longevity and increase social equity within the community.
- Focus of the pier is to provide public with learning opportunities regarding the habitat and the river, thereby encouraging community stewardship of those assets.

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- Material selection for the pier aims to maximize expected life span within reasonable cost by carefully considering concrete cover, steel coatings, and use of durable plastics.
- Language incorporated in the specifications will encourage reuse of any excess soil to the extent practical.
- Specifications for plastics and other construction materials will require and/or encourage recycled content to the extent practical.

ALTERNATIVES CONSIDERED AND THEIR IMPLICATIONS:

- Alternative 1 - No Action. Stop design and permitting work on Public Access Viewpoint Pier at Site 23, and stop the acquisition of a portion of South Park Marina floating dock structure. Without acquisition of the floating dock, the public pier that would have to be built would reduce the area for habitat restoration as well as the value of the restored habitat. Terminal 46 will be out of compliance with City of Seattle shoreline regulations as of January 1, 2014. Locating an alternate site will require an intermediate solution in order for Terminal 46 to remain in compliance. The construction of the public access pier at an alternate location is projected to have a higher cost and rely on land area with higher commercial and industrial value. Alternative 1 is not recommended.
- Alternative 2 – Purchase Marina floating dock, stop design of Public Access Pier at Site 23. Proceed with the acquisition of a portion of South Park Marina floating dock, and stop design and permitting work on public access viewpoint pier at Site 23. Terminal 46 will be out of compliance as of January 1, 2014. Locating an alternate site will require an intermediate solution in order for Terminal 46 to remain in compliance. The construction of the public access pier at an alternate location is projected to have a higher cost. With the additional area made available by removing a portion of the floating dock structure, the Port would expand the restored habitat area, increasing the NRD settlement value of the project. However, the additional restored habitat would allow the marina's ingress/egress channel and would be subject to disturbance from vessel operation. Alternative 2 is not recommended.
- Alternative 3 – Stop purchase of Marina floating dock, continue design of Public Access Pier at Site 23. Proceed with design and permitting work on public access viewpoint pier at Site 23, and stop the acquisition of a portion of South Park Marina floating dock. Without the additional area gained by removing portion of the floating dock structure, the public access viewpoint pier would have to be constructed in a less-than-optimal location; it would need to be moved to the south into areas that are currently proposed for habitat restoration. This would greatly reduce the value of the habitat project. However, with the construction of the pier, Terminal 46 would be in compliance for continued operation. Alternative 3 is not recommended due to the significant loss of NRD settlement value of the habitat project.
- Alternative 4 – Purchase Marina floating dock, continue design of Public Access Pier at Site 23. Proceed with the acquisition of a portion of South Park Marina floating dock, and continue design and permitting work on a public access viewpoint pier at Site 23. By proceeding with both actions, the alignment of the public access viewpoint pier would allow a gain in additional habitat area at the north boundary of the site, thereby minimizing the impact on the habitat value for purposes of NRD settlement. Terminal 46 would be in compliance for continued operation. By combining the design and construction of the restoration and public access pier projects on

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the same site, construction related impacts would be minimized and there would be an overall cost savings due to design and construction efficiency. **This is the recommended alternative.**

OTHER DOCUMENTS ASSOCIATED WITH THIS REQUEST:

Site map of T-117 potential restoration area.

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS:

- On July 25, 2006, the Commission received public testimony for T- 117 completion options.
- On May 13, 2008, the Commission approved entering into an MOA with the Trustees for crediting Habitat Restoration Projects in and near the Lower Duwamish Waterway relating to future Settlement of Natural Resource Damages claims; for execution of a professional services agreement for environmental review and application of permit authorizations; and to prepare plans and specifications for design and permitting of a fish and wildlife habitat restoration project at T-117 under the MOA, for a total authorized expenditure of \$210,000.
- On October 27, 2008, the Commission approved entering into a Settlement Agreement with the Malarkey Parties, the Duwamish Parties, the City of Seattle and King County regarding T-117 Site and Lower Duwamish Site Cleanup Costs, and Natural Resource Damage Liability.
- On July 7, 2009, the Commission adopted the Lower Duwamish River Habitat Restoration Plan, an inventory of Port of Seattle Properties.
- On June 7, 2011, the Commission approved permitting and design of an expanded fish and wildlife habitat restoration project at Terminal 117 (T-117) for an estimated cost of approximately \$3,021,000; and 2) execute a contract for outside professional services to complete the permitting and design of the habitat restoration project at T-117.
- On November 27, 2001, the Commission approved project management and design; and to award and execute contracts for outside professional services, procurement, and construction for purposes of renovation of container Terminal 37/46 (T-46) for Hanjin Shipping Company, Ltd, (Hanjin) in the amount of \$45,130,000.