

**PORT OF SEATTLE**  
**MEMORANDUM**

**COMMISSION AGENDA**  
**ACTION ITEM**

**Item No.** 6a  
**Date of Meeting** February 4, 2014

**DATE:** January 24, 2014  
**TO:** Tay Yoshitani, Chief Executive Officer  
**FROM:** Stephanie Jones Stebbins, Director, Seaport Environmental & Planning  
Kathy Bahnick, Manager, Remediation Program  
Roy Kuroiwa, Senior Environmental Program Manager  
**SUBJECT:** Service Agreement P-00317417, AECOM, Technical Services, Inc.  
Cleanup Oversight Services - Terminal 117 NTCRA Cleanup Project

<b>Amount of This Request:</b>	\$1,400,000.00	<b>Source of Funds:</b>	Environmental Remediation Liability No Ops (Tax Levy)
<b>Est. Total Project Cost:</b>	\$3,100,000.00		
<b>Est. State and Local Taxes:</b>	\$140,000	<b>Est. Jobs Created:</b>	14

**ACTION REQUESTED**

Request Commission authorization for the Chief Executive Officer to increase the professional Service Agreement/contract (AECOM P-00317417) with AECOM Technical Services Inc. for cleanup oversight services at the Terminal 117 (T-117) Non-Time Critical Removal Action (NTCRA) Cleanup Project by \$1,400,000 for a new contract total of \$3,100,000. In accordance with RCW 53.19.060, this memorandum constitutes notification to the Commission that the amended amount of the contract exceeds 50 percent of the original not-to-exceed contract value of \$1,700,000. There is no funding increase to the project amount as a result of this authorization.

**SYNOPSIS**

This memo requests authorization to increase the existing and original contract amount of \$1,700,000 by \$1,400,000, which is greater than 50% of the original contract value. This contract increase would be performed through Service Agreement Amendment No. 5. Amendments No. 1, 2, 3 and 4 were zero dollar amendments and were prepared only to add subcontractors/rates to the contract.

This professional services agreement provides for consultant support services needed for environmental compliance monitoring services (i.e., soil sampling, health and safety monitoring, analytical laboratory services, etc.) at the T-117 EAA cleanup site (an Early Action Area within the larger Lower Duwamish Waterway Superfund project). This authorization allows the Port to continue to provide these compliance services, consistent with the EPA-approved work plans as

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required by the Administrative Settlement Agreement and Order on Consent that the Port entered into with the EPA on June 8, 2011 (the “2011 Order”).

An increase in the contract amount is necessary to supply the services that are now required due to an extended cleanup schedule. The schedule changes are: upland construction/cleanup has been increased from 4 months to 8 or 9 months; and dredging operations have been delayed by one month.

### **BACKGROUND**

The T-117 site is part of the Lower Duwamish Waterway (LDW) Superfund site. Contamination in the T-117 area is primarily from polychlorinated biphenyls (PCBs), which were used widely for decades, including for transformers and other electric equipment, before their manufacture and use was banned in 1978. An asphalt shingle plant operated on this property for many decades and, for a period of time in the 1970s, that facility used waste transformer oil as fuel, which was likely tainted with PCBs. Asphalt plant mishandling of waste transformer oil is the most likely source for the majority of the PCB contamination in the vicinity of T-117.

Following EPA’s decision to list the LDW as a federal Superfund site and its subsequent designation of the T-117 sediment site as an “Early Action Area,” in October 2000, the Port entered into an Administrative Order on Consent for Removal Action with EPA (the “2000 Order”) to perform an investigation of contamination within the sediments and in the adjoining upland area of this Early Action Area. As the investigation continued and the scope of the anticipated remediation expanded, the 2000 Order was followed by subsequent EPA Orders in October 2005, December 2005, and June 2011. The City of Seattle became a signatory to the Order, starting with the December 2005 Order. The Orders required the Port (and later, the City) to investigate and develop a cleanup plan for sediments, intertidal mudflats, bank, and a portion of the adjacent uplands in the vicinity of T-117, and to perform the required cleanup. EPA formally approved the current cleanup plans in an Action Memorandum dated September 30, 2010.

At its May 24, 2011, meeting, the Commission authorized entering into the Administrative Settlement Agreement and Order on Consent (the 2011 Order) for the design, cleanup implementation, and operation and monitoring (O&M) of the cleanup (i.e., the current work). After design approval, the cleanup construction began in May 2013.

About two months into the upland cleanup, buried drums and tanks of various liquid products were unexpectedly discovered, prompting the Port to issue a Declaration of Emergency. The declaration allowed the Port to hire specially-trained emergency response and hazardous waste contactors. After this delay, upland cleanup resumed, but the schedule was affected. (Previous subsurface environmental and design investigations did not detect many of the buried drums and tanks as they were located under much of the rip-rap-reinforced shoreline and river bank).

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### **PROJECT JUSTIFICATION AND DETAILS**

The overall goal of the T-117 cleanup is to significantly reduce or eliminate the exposure of ecological and human receptors to sediment and soil contamination, and thereby reduce or eliminate adverse effects on resources in the project site. The purpose of this contract is to provide cleanup oversight, compliance sampling and documentation in order to ensure that the cleanup construction will be completed as required by the EPA Order.

As a result of the extended cleanup period and additional construction/compliance support requested by the Port's Construction Management team, the total authorized amount of the AECOM contract must be increased to provide the support described below through the end of the construction project, and to fulfill the required reporting.

#### ***Project Objectives***

- Perform the required cleanup construction and operation and maintenance activities required by EPA's 2011 Order.
- Perform the work in accordance with EPA's Statement of Work and Schedule (i.e., attachments to the 2011 Order).
- Manage and perform the work in accordance with local, state, and federal cleanup laws and regulations, with project controls and contract systems in place.
- Maximize cost recovery opportunities.
- Identify and consider community values and concerns as part of a formal Community Involvement Plan.

#### ***Scope of Work***

Environmental services required during construction and post construction includes the following:

- Construction observation during all upland and in-water activities
- Permitting and regulatory support
- Cleanup compliance monitoring, such as soil and sediment sampling
- Health and safety monitoring, including air quality, noise and light
- Community outreach and communication
- First year operations and monitoring
- Management, controls, and administration support of field services
- Documentation and reporting

These services were all included in the original contract scope.

#### ***Schedule***

T-117 construction (cleanup) kicked-off in May 2013 with contractor mobilization, site setup and security measures put in place. Upland cleanup is now expected to be completed in January

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2014. (It was originally scheduled for completion around September 2013). In-water cleanup is expected to be completed in February 2014. Punch-list items and final inspection will be completed by April or May 2014. Following construction completion, the consultant will develop the required completion reports documenting the cleanup, and begin the first year of operations and maintenance.

The professional services/consultant work pertaining to this authorization (T-117 Environmental Cleanup Oversight Services) began in March 2013, and will continue through June 2015, after completion of the cleanup work, plus an additional one year of operations and maintenance. The Port will secure long-term monitoring services under a separate future procurement.

## **FINANCIAL IMPLICATIONS**

There is no funding request as part of this authorization. The funding required for these contracts was previously included in the 2014 Plan of Finance and included as part of the 2014 Environmental Remediation Liability Annual Authorization.

### ***Budget Status and Source of Funds***

Pursuant to a Settlement Agreement entered into in July 2008, the City of Seattle is paying 40% of the cleanup costs on this portion of the T-117 EAA cleanup. In addition, certain cleanup costs are eligible for Model Toxics Control Act (MTCA) grants administered by the Department of Ecology. In November 2013, Ecology authorized a grant for T-117, which is expected to cover approximately 50% of eligible costs. City contributions plus the grant proceeds are anticipated to provide 70% of the contracted costs during 2014 and 2015.

Any additional environmental remediation liability will be booked as the project moves forward and will be reported annually to the Commission via routine environmental liability reports and spending authorization requests. The source of funds is the tax levy.

## **STRATEGIES AND OBJECTIVES**

This project will achieve the strategic objective of accomplishing cleanup of the Port's property, while assuring that other responsible parties are paying their fair share.

As a signatory on the EPA Order, the Port is legally obligated to do this work as directed by the EPA. The Port continues to carefully control costs associated with the effort to minimize overall economic impact.

## **TRIPLE BOTTOM LINE**

### ***Economic Development***

Cleanup of the site will allow its beneficial reuse.

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### ***Environmental Responsibility***

The overall goal of the T-117 cleanup is to significantly reduce or eliminate the exposure of ecological and human receptors to sediment and soil contamination, and thereby reduce or eliminate adverse effects on resources in the project site

Cleanup planning and design efforts also incorporate opportunities for materials reuse, recycling, and/or reduction (also known as Green Sustainable Remediation features within Superfund cleanup). Finally, cleanup implementation will include significant environmental controls and performance monitoring to ensure public health and safety.

### ***Community Benefits***

The project is located adjacent to the City of Seattle neighborhood of South Park, recognized as a socially diverse and economically disadvantaged neighborhood. The T-117 site is located adjacent to single and multi-family residences.

State and federal laws require elimination of unacceptable levels of environmental risk caused by the presence of contaminants in soil, groundwater and sediment. From the perspective of the surrounding communities and the customers that we serve, the Port's participation in site remediation is the hallmark of responsible environmental stewardship.

## **ALTERNATIVES AND IMPLICATIONS CONSIDERED**

**Alternative 1)** – Do not proceed with amending the existing professional services agreement. The Port will perform this work using existing, on-call contracts, which will result in higher costs and poor performance to account for lack of site/regulatory knowledge. This is not the recommended alternative.

**Alternative 2)** – Perform in-house these services related to environmental construction support and compliance sampling associated with the T-117 cleanup. The Port does not have sufficient staff or equipment to provide this level of effort required to carry out an EPA Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) cleanup project. This is not the recommended alternative.

**Alternative 3)** – Amend the existing contract for Cleanup Oversight Services – Terminal 117 NTCRA Cleanup Project. **This is the recommended alternative.**

## **ATTACHMENTS TO THIS REQUEST**

None

## **PREVIOUS COMMISSION ACTIONS OR BRIEFINGS**

- August 24, 1999 – Commission approved the purchase and sale agreement for the acquisition of the Malarkey Asphalt Property at a cost of \$176,400 and implementation of required environmental cleanup measures on adjoining Port property at a cost not to exceed \$800,000.

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- June 11, 2002 – Commission approved expenditure of \$1,500,000 previously reserved for aquatic sediment management and revision of the existing contract with Windward Environmental, Inc. to provide services required by EPA’s Order on Consent to continue work on the Lower Duwamish Sediments Superfund site and the East Waterway Sediment Operable Unit of the Harbor Island Superfund site.
- August 24, 2004 – Commission approved execution of the Memorandum of Agreement (Cost Allocation) between the Port and the City of Seattle for Malarkey Early Action Area.
- March 8, 2005 – Commission approved the project-wide authorization expenditure of \$8,102,200 for environmental cleanup action on Port properties during 2005.
- October 11, 2005 – Commission approved execution of (1) Administrative Settlement Agreement and Order on Consent for Removal Action T-117 Early Action Area; and (2) Administrative Settlement Agreement and Order on Consent for the T-117 Upland Investigation.
- December 8, 2005 – Commission approved the project-wide authorization expenditure of \$8,705,760 for environmental cleanup action on Port properties during 2006.
- June 27, 2006 – Commission (1) approved execution of Administrative Settlement Agreement and Order on Consent for Time Critical Removal Action in the T-117 Upland Area; (2) directed staff to develop a work plan to expand the cleanup options in the T-117 Upland Area; and (3) amended the 2006 project-wide authorization expenditure in the amount of \$6,000,000.
- April 14, 2008 – Commission authorized the Chief Executive Officer to sign a Memorandum of Agreement with the National Oceanic and Atmospheric Administration, the Muckleshoot and Suquamish Tribes, the Washington Department of Ecology, and the U.S. Fish and Wildlife Service for Crediting Habitat Restoration Projects in and near the Lower Duwamish Waterway relating to Future Settlement of Natural Resource Damages Claims.
- October 27, 2008 – Commission authorized the Chief Executive Officer to Sign 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.
- May 24, 2011 – The Commission authorized Chief Executive Officer to execute an Administrative Settlement Agreement and Order on Consent for the Removal Action Implementation at Terminal 117 (the “EPA Order”), an Early Action Area for the Lower Duwamish Waterway Superfund.

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- November 6, 2012 – The Commission authorized the Chief Executive Officer to execute a major construction contract, and to execute a contract (subject of this memo) to provide environmental consultant services for Cleanup Oversight at the Terminal 117 Cleanup Project.
- December 3, 2013 – The Commission authorized \$106,740,000 for the 2014-2018 Environmental Remediation Liability Program, including spending of \$22,180,000 for environmental liabilities in 2014.
- August 27, 2013 – The Port authorized a Declaration of Emergency to rapidly address discoveries of product filled and buried drums and barrels during the upland construction cleanup. The Declaration of Emergency allowed the Port to hire professional services and environmental-response contractor to address the new discoveries.