

PORT OF SEATTLE
MEMORANDUM

COMMISSION AGENDA
ACTION ITEM

Item No.	6b
Date of Meeting	October 13, 2015

DATE: August 10, 2015
TO: Ted Fick, Chief Executive Officer
FROM: Kathy Bahnick, Seaport Environmental Program
SUBJECT: Service Agreement for Terminal 91 Cleanup Long Term Environmental Operations and Compliance Monitoring

Value of this contract:	\$730,000	Source of Funds:	Tax Levy (Environmental Remediation Liability [ERL] Non Ops)
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ACTION REQUESTED

Request Commission authorization for the Chief Executive Officer to execute a contract for long-term environmental operations and monitoring at Terminal 91, as required under Agreed Order No. DE 8938 entered into with the Department of Ecology and dated April 10, 2012. The contract amount is estimated at \$730,000 with estimated contract duration of up to 5 years. No funding is associated with this request.

SYNOPSIS

Terminal 91 (T-91) is located in an industrial area in the Interbay neighborhood of Seattle. The two piers at Terminal 91 were built by the Port soon after its establishment in 1911. Various oil companies and other businesses operated on the T-91 site from 1926 until 1941, when the U.S. Navy took possession and consolidated multiple parcels into T-91 as it exists today. The Port acquired the facility back from the Navy in the 1970s. The former tank farm located at T-91 was leased to Philip Services Corporation and its predecessors for use as a dangerous waste treatment and storage facility under a Resource Conservation and Recovery Act (RCRA) permit from that time until 1995. The tank farm was also operated by various marine fuel marketing companies until 2003. The above-ground portion of the tank farm was demolished by the Port in 2005.

Releases associated with the tank farm operations resulted in contaminated soils and groundwater at T-91. Since 1998, the Port has been working with the Department of Ecology (Ecology) on the investigation, assessment and development of corrective/cleanup actions to address the problems. On April 10, 2012, Ecology and the Port entered into an Agreed Order (No. DE 8938) which obligated the Port to implement a final Cleanup Action Plan (CAP) that included performance of certain cleanup actions, completion of compliance monitoring (through 2044), and the requirement to continue to investigate and manage any additional contamination at the T-91 facility, including any newly identified contamination discovered during implementation of the CAP. The cleanup identified in the CAP (excluding the long term compliance monitoring and maintenance of the

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remediation systems) was performed from 2012 through early 2015. The site is now available to accommodate a range of future uses compatible with current industrial zoning.

This request is only for contracting authorization; funding will be authorized by the Commission under the Environmental Remediation Liability (ERL) annual authorization.

BACKGROUND

The T-91 site is regulated under both a Resource Conservation and Recovery Act (RCRA) permit and a Model Toxics Control Act (MTCA) Agreed Order. The RCRA permit remains in place because a portion of the site (the tank farm) was formerly permitted to operate as an RCRA-regulated dangerous waste treatment and storage facility. Both the former RCRA facility and the surrounding piers and terminal are now being cleaned up under the MTCA program. The Port, as the property owner, is required to hold the RCRA permit until cleanup (“corrective action”) is completed. The permit imposes corrective action by incorporating a separate agreed order issued under MTCA.

The Port of Seattle entered into the first MTCA agreed order for this site in 1998 (the “1998 Agreed Order”). Philips Services Corporation (PSC) and Pacific Northern Oil Corporation (PNO), as former operators of the tank farm, also signed the 1998 Agreed Order. Both PSC and PNO subsequently went out of business, leaving the Port as the sole responsible party on the 1998 Agreed Order. Under the 1998 Agreed Order, the Port was required to prepare a Remedial Investigation (RI) and Feasibility Study (FS), and to develop a CAP.

The 1998 Agreed Order was replaced by a new agreed order in 2010. The 2010 Agreed Order continued the requirement to complete the FS and develop the draft CAP. It also extended the geographic definition of the site beyond the tank farm to encompass the entire Terminal 91 property owned by the Port (including submerged lands). Ecology required this change to satisfy a RCRA permit requirement that corrective action must include all contiguous property under the permit-holder’s ownership.

Environmental investigations at the T-91 site have been ongoing since the early 1980s and continue to the present time. The primary area of contamination at the site is the tank farm and associated operations. Chemicals of concern found in groundwater and soils near the tank farm site include total petroleum hydrocarbons (including floating product on the groundwater), volatile organic compounds, semi-volatile organic compounds, polychlorinated biphenyls, and metals. The cleanup activities are designed to address direct contact with site soil, indoor air quality due to vapor intrusion, and impact to aquatic receptors, i.e., fish or invertebrates.

The Ecology-selected cleanup approach was identified in the December 15, 2010, final CAP. The CAP-required work consisted of measures designed to prevent migration of contaminants to Elliott Bay and to prevent direct contact with contaminants. These measures included installation of a containment barrier wall at the tank farm, installation of product recovery trenches, installation of an asphalt cover to the tank farm area, and removal of subsurface structures. The CAP also included excavation to address contamination from a historic pipeline release on Pier 91, and

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decommissioning of old fuel pipelines. In addition, long-term operation and monitoring of the installed systems and compliance monitoring are included.

On April 10, 2012, the Port and Ecology entered into an Agreed Order, under which the Port agreed to implement the work identified in the CAP. The 2012 Agreed Order also requires investigation and cleanup of discrete units in the upland area not included in the final CAP, and placement of a restrictive covenant on the property. The restrictive covenant will limit exposure to hazardous substances by regulating land uses on the property and providing notice to future users as to the presence of hazardous substances. The restrictive covenant will include notification requirements, will restrict groundwater usage, and require future land use to be consistent with current land use. The 2012 Agreed Order defers action on marine sediments in the vicinity of T-91 to a later date.

With the implementation of the cleanup work complete, the project is ready to move into the long-term operation and monitoring of the remediation systems and compliance monitoring phase.

PROJECT JUSTIFICATION AND DETAILS

The Port is required to maintain and monitor the cleanup/implementation of the selected cleanup action of T-91 in accordance with the 2012 Agreed Order. The purpose of the cleanup is to significantly reduce or eliminate the exposure of ecological and human receptors to soil contamination, groundwater, and sediment, thereby significantly reducing or eliminating adverse effects on resources in the project site.

The cleanup has restored the site to a range of future site uses compatible with current industrial zoning and the remaining required work is to maintain the remedial structures (cover, product recovery system and containment wall); to monitor the systems to verify they continue to perform as anticipated; reporting and record keeping and investigation of any newly discovered contamination.

Project Objectives

- Perform the required operation and maintenance activities required by the 2012 Agreed Order.
- Perform project management activities required under the Order such as record keeping, reporting and investigations of newly discovered contamination.
- Manage and perform the work in accordance with local, state, and federal cleanup laws and regulations, with project controls and contract systems in place.
- Deliver project in a quality, cost efficient manner and within schedule as approved by Ecology.
- Maximize cost recovery opportunities.
- Identify and consider community values and concerns

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Scope of Work

The contracted firm will perform services necessary to fulfill and implement the remaining requirements of the Agreed Order. These would include:

- Project management, administrative and reporting support
- O&M tasks such as cutoff wall inspections, cover inspection and water/Light Non-Aqueous Phase Liquid monitoring
- Compliance monitoring
- Investigation of newly discovered contamination and Agreed Order compliance construction and technical support

Schedule

It is estimated that the contract will be executed by Q2 2016 in order to have a transition period between this contract and the current one. The contract duration is up to 5 years for the operation and monitoring tasks but the contract may be extended to support Ecology's five-year review of the O&M tasks performed by the selected consultant if Ecology's review takes longer than expected.

FINANCIAL IMPLICATIONS

There is no funding request as part of this authorization since the budget for this requested action will be authorized in the annual ERL program authorization requests. All costs will be accounted for as environmental remediation liabilities and charged to expense in accordance with Port Policy AC-9. The tax levy is the funding source.

Budget Status and Source of Funds

There is no funding request associated with this authorization. Individual service directives will be executed to authorize the consultant to perform any specific work on the contract against approved ERL annual authorizations and within the total contract amount.

The costs for O&M and compliance monitoring, were included in the Commission's 2015 Environmental Remediation Liability (ERL) spending authorization and five-year plan, approved on December 9, 2014. The ERL cost estimates were also included in the 2015 plan of finance. Additional costs may be incurred if continuing investigations identify any new areas requiring cleanup. Any additional cleanup costs that may be required as the project moves forward will be recorded as a liability and a non-operating expense in accordance with Port Policy AC-9, Environmental Remediation Liability. These amounts will be reported annually to the Commission via routine environmental remediation liability reports and spending authorization requests.

The Port's tax levy will pay the costs for the environmental cleanup project that are not ultimately covered by cost sharing agreements, settlements, insurance, or other cost recovery sources. In addition, Port staff is pursuing additional grant funding from Ecology.

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STRATEGIES AND OBJECTIVES

In support of the Century Agenda strategy to be the greenest port in North America, this project will maintain environmental cleanup of the Port's property, while assuring that other responsible parties are paying their fair share.

TRIPLE BOTTOM LINE

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. Cleanup also returns contaminated land to a more productive use. In accordance with the Office of Social Responsibility (OSR) recommendations, small business participation will be considered in the evaluation criteria. This goal will likely be met through teaming arrangements.

ALTERNATIVES AND IMPLICATIONS CONSIDERED

Alternative 1) – All long-term environmental operations and compliance monitoring completed by Port staff. Estimated cost is \$219,000 per year for 5 years.

Pros

- Additional hired employees would provide flexible work force.
- Increases Port staff technical development

Cons

- Requires additional Port staff
- Requires purchase of substantial amount of sampling equipment
- Would still require some contracting for tasks staff would not be able to perform such as laboratory analysis
- Relying on in-house staff would likely result in the work not being conducted according to the schedule required by the regulatory agency, with a risk of enforcement action.

Alternative 2) – All long-term environmental operations and compliance monitoring completed using a project-specific contract. Estimated cost is \$146,000 per year for 5 years.

Pros

- This will provide for a competitive procurement process and encourage small business participation
- Provides continuity in services and consistent knowledge of regulatory requirements from the Agreed Order.
- Provides full service support and expertise
- Provides staff with the tools to respond in a timely manner to new requests from Ecology.

Cons

- Reduces technical development opportunities for Port staff

This is the recommended alternative.

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ATTACHMENTS TO THIS REQUEST

None

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS

- August 6, 2013 - Commission authorized the Chief Executive Officer to execute a major construction contract, and to self-perform using Port crews to implement the cleanup action at T91 as required under Agreed Order No. DE 8938 entered into with the Washington State Department of Ecology and dated April 10, 2013.
- December 4, 2012 – Commission authorized \$44,179,000 spending in 2013 for Environmental Remediation Liabilities.
- March 27, 2012 – Commission authorized the Chief Executive Officer to execute Agreed Order No. DE 8938 with the Washington State Department of Ecology on the implementation of a Cleanup Action Plan and to address contamination in the Upland area of Terminal 91.
- May 4, 2010 – Commission authorized the Chief Executive Officer to execute the 2010 agreed order with the Washington State Department of Ecology.