

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

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

**Item No.** 6c  
**Date of Meeting** September 27, 2016

**DATE:** September 19, 2016  
**TO:** Ted Fick, Chief Executive Officer  
**FROM:** Stephanie Jones Stebbins, Director Marine Stormwater Utility  
Jane Dewell, Maritime Stormwater Program Manager  
**SUBJECT:** Approval of an Interlocal Agreement Between the Port and City of Seattle  
Regarding the Port's Marine Stormwater Utility

<b>Amount of This Request:</b>	No funds requested	<b>Source of Funds:</b>
<b>Est. Total Project Cost:</b>	Approx. \$4.7 million/year expended to rehabilitate Port stormwater system	
<b>Net Proceeds to the Port:</b>	Approx. \$4.7 million/year	

**ACTION REQUESTED**

Request Commission authorization for the Chief Executive Officer to execute an interlocal agreement (ILA) creating a legal agreement between the City of Seattle and the Port of Seattle regarding the coexistence of a Port of Seattle Marine Stormwater Utility and a City of Seattle stormwater utility.

The Seattle City Council will be considering the ILA during their council meeting on September 26, 2016.

**SYNOPSIS**

In November 2014, the Port of Seattle Commission created a Port of Seattle Stormwater Utility and activated the Marine portion of that Utility. Creation of the Utility was part of a larger effort by the Port to independently manage stormwater from real property it owns and to be relieved of the obligation to pay surface water management fees to the City of Seattle. Port and City of Seattle staff worked together diligently to develop the details of an interlocal agreement that would allow both Utilities to best serve the City and Port customers as well as protect the environment.

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The benefits of establishing a Stormwater Utility operated by the Port for Port properties include the following:

- Establishment of a source of funds that will be used to assess, repair, and rehabilitate the Port's aging stormwater infrastructure
- Improved water quality of stormwater runoff entering Puget Sound due to infrastructure rehabilitation
- Support achievement of Century Agenda goal to "Meet or exceed agency requirements for stormwater leaving Port-owned or operated facilities"

A 'Terms for Agreement' outlined how the Port would withdraw from the obligation to pay the City of Seattle surface water management fees and how the City and Port would work cooperatively on surface water (stormwater) management issues concerning their properties. The ILA was negotiated in November 2014. Development of the ILA followed a high-level meeting between Commissioners Gregoire and Bowman and Mayor Murray that occurred on April 11, 2014.

The Port of Seattle and City of Seattle agreed to negotiate a detailed ILA that would memorialize and further detail the 'Terms of Agreement,' including the following:

- The Port would stop paying stormwater fees to the City,
- The City would release any and all legal claims against the Port based on the Port's authority to create an Utility,
- The Port would indemnify the City concerning any jurisdictional challenges related to the creation of the Utility,
- The Port will pay the City the equivalent of the fees for 2015 (approximately \$4 million),
- The parties would document where the City and Port stormwater systems connect,
- The parties would adopt a process for resolving system ownership disputes,
- The parties would agree to a process for code enforcement,
- The parties would agree to a process to address City stormwater flows to Port properties that have stringent requirements under industrial stormwater permits, and
- The parties would agree to a dispute resolution process.

Port of Seattle and City of Seattle staff completed work on details of the ILA and exhibits in July 2016. The City of Seattle Council is scheduled to consider this ILA during a September 2016 Seattle City Council meeting.

## **BACKGROUND**

The Port of Seattle Commission approved creation of the Stormwater Utility on November 25, 2014 (Port of Seattle Resolution No. 3696, as amended). The need for a Stormwater Utility, where funds are collected and used by the Port of Seattle, became a priority due to increased regulatory requirements, increased stringency in water quality permits, and increased costs to the Port and tenants to comply with more stringent permit requirements. Without a Stormwater Utility, the Port and tenants would continue to pay drainage fees to the City of Seattle, with fees

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escalating at approximately 10 percent a year (\$4 million in 2015). With the creation of a Stormwater Utility, the drainage fees are collected and used by the Port to invest in assessing and rehabilitating our stormwater infrastructure and in supporting other stormwater permit requirements.

Between November 2014 and July 2016, technical, legal, and management staff at the Port of Seattle and City of Seattle Public Utilities conducted research and drafted the documents that became the ILA and exhibits. These documents define legal and financial responsibilities, stormwater system connections, and issues to be resolved in the coming years, such as system easements and improvements.

During 2015, following the November 2014 adoption of the Stormwater Utility and ‘Terms for Agreement’ with City of Seattle, the Port collected stormwater drainage fees and held funds in an account rather than paying them to the City of Seattle. The drainage fees collected and held in 2015, which are approximately \$4 million, will be paid to the City of Seattle once the ILA has been approved by both agencies.

Beginning in January 2016, the drainage fees collected from Port properties were used to support the Utility’s work to assess, repair, and develop priorities for rehabilitating the Maritime properties’ stormwater infrastructure. Initial work focused efforts on storm systems at the container terminals and other highly industrial properties in the Lower Duwamish Watershed. Conversations were initiated with tenants, business units, and other Port and Northwest Seaport Alliance staff that benefit from or contribute to the Utility to educate and gather support for this new organization and the stormwater improvements that will be initiated.

## **PROJECT JUSTIFICATION AND DETAILS**

### ***Project Objectives***

The Marine Stormwater Utility will allow the Port to collect drainage fees and invest funds in rehabilitating stormwater infrastructure. Specific objectives include:

- Assess condition of stormwater lines and related structures
- Identify urgent repairs, and prioritize and complete those repairs
- Identify and characterize longer term capital improvements that could contribute to system rehabilitation and improved stormwater quality from Port properties

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

The ILA will formalize the agreement with the City of Seattle regarding the Marine Stormwater Utility, stormwater system connections, and financial and legal obligations.

### ***Schedule***

In 2015 and 2016, policies were developed to define and guide Utility work. In 2016, equipment was purchased to support stormwater system assessment, improvements to some properties were

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initiated that included line repairs and installation of tide gates, and scheduling of system assessments and some urgent repairs was begun.

The following goals were developed for Utility stormwater system assessment and rehabilitation:

<i>Year</i>	<i>Assessment (%)</i>	<i>Rehabilitation (%)</i>	<i>Notes</i>
2016	15	6	Baseline
2017	30	12	
2019	100	24	Complete assessment
2020		30	
2025		45	
2030		60	
2035		75	Milestone for Century Agenda Goal

## **FINANCIAL IMPLICATIONS**

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

In 2014, the Port and its tenants paid an estimated \$4.1 million to the City of Seattle in stormwater fees. In 2015, the Port collected approximately \$4 million dollars in stormwater fees, and upon signing the ILA, these fees will be paid to the City of Seattle as part of the agreement. In 2016, the Port expects to collect \$4.7 million dollars in stormwater fees from tenants, business divisions, and the Northwest Seaport Alliance. In 2017, stormwater utility funds are estimated at \$4.9 million. Under the rules of the Stormwater Utility, and agreement outlined in the ILA, these funds will be expended to support assessment and improvements to the Port's maritime stormwater infrastructure.

## **STRATEGIES AND OBJECTIVES**

Environmental benefits of the Marine Stormwater Utility include improving stormwater quality from Port lands through cleaning, repairing, rehabilitating, and improving the stormwater infrastructure on Port Maritime properties.

Implementing the Stormwater Utility supports the following Century Agenda Goals and Green Port Principles:

- Be the greenest and most energy efficient Port in North America (Century Agenda Strategy)
- Meet or exceed agency requirements for stormwater leaving Port-owned or operated facilities (Century Agenda Goal)
- Serve as a model of sustainable growth while enhancing water quality at the Port (Century Agenda Green Port Principle #1)

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- Allocate funds to those efforts that will yield the greatest environmental and water quality benefits (Century Agenda Green Port Principle #2)
- Implement stormwater-related policies and programs that enhance the Port's economic competitiveness (Century Agenda Green Port Principle #4)

The Marine Stormwater Utility also supports Green Marine objectives pertaining to proper stormwater management in the categories of Spill Prevention, Dry Bulk Handling and Storage, and Community Impacts.

## **ALTERNATIVES AND IMPLICATIONS CONSIDERED**

### **Alternative 1 – Do not move forward with the Utility and do not sign the ILA**

Cost Implications: No new income to invest in Port stormwater infrastructure, and return funds to City of Seattle collected by the Utility since 2015.

#### Pros:

- (1) No new work added to the organization regarding assessment and rehabilitation of stormwater system
- (2) City of Seattle would be pleased to continue receiving \$4-5 million/year in stormwater fees from the Port Maritime properties

#### Cons:

- (1) The Commission would be backing out of the 2014 agreement with the City of Seattle
- (2) No funds to invest in Port stormwater infrastructure
- (3) Reduce likelihood of meeting Century Agenda goal to 'Meet or exceed agency requirements for stormwater leaving Port-owned or operated facilities'

This is not the recommended alternative.

### **Alternative 2 – Move forward with the Utility but do not sign the ILA**

Cost Implications: Collect Utility income of approximately \$4.7 million (2016) and \$4.9 million (2017), and retain funds collected by the Utility in 2015 (do not pay to City).

#### Pros:

- (1) Receive Utility funds that can be invested in assessing and rehabilitating Port stormwater infrastructure
- (2) Improve likelihood of meeting Century Agenda goal to 'Meet or exceed agency requirements for stormwater leaving Port-owned or operated facilities'

#### Cons:

- (1) The Commission would be backing out of the 2014 agreement with the City of Seattle
- (2) New work added to the organization to assess and address stormwater system improvements

This is not the recommended alternative.

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### **Alternative 3 – Continue to implement the Utility and sign the ILA with City of Seattle**

**Cost Implications:** Collect Utility income of approximately \$4.7 million (2016) and \$4.9 million (2017), and pay City of Seattle \$4 million collected in 2015.

#### **Pros:**

- (1) Complete the process of formalizing a Stormwater Utility that began in 2014
- (2) Receive Utility funds that can be invested in assessing and rehabilitating Port stormwater infrastructure
- (3) Improve likelihood of meeting Century Agenda goal to ‘Meet or exceed agency requirements for stormwater leaving Port-owned or operated facilities’
- (4) Resolve any legal ambiguities concerning the Port’s future obligations to pay surface water management fees to the City

#### **Cons:**

- (1) New work added to the organization to assess and address stormwater system improvements

**This is the recommended alternative.**

### **ATTACHMENTS TO THIS REQUEST**

- Computer slide presentation
- Port of Seattle-City of Seattle Interlocal Agreement Regarding Stormwater Utility Operations, Seattle Public Utilities Agreement Number 15-083A
- Exhibit A: List of Port Parcels Removed from SPU Drainage Billing
- Exhibit B: City-Port of Seattle Drainage System Connection Table
- Exhibit C: Stormwater Infrastructure Ownership Resolution and SPU Easements Needed from the Port of Seattle
- Exhibit D: Example Connection Agreement

### **PREVIOUS COMMISSION ACTIONS OR BRIEFINGS**

- June 3, 2014 – Stormwater Overview & Issues Briefing, Staff Briefing Item No. 7a
- September 11, 2014 – First Reading of Resolution No. 3696, Authorizing Stormwater Utility Formation, Action Item No. 6f
- November 25, 2014 – Second Reading of Resolution No. 3696, as amended, Authorizing Stormwater Utility Formation, Action Item No. 6d