



**COMMISSION
AGENDA MEMORANDUM**

Item No. 8g

ACTION ITEM

Date of Meeting April 16, 2024

DATE: April 9, 2024

TO: Stephen P. Metruck, Executive Director

FROM: Jennifer Maietta, Director of Real Estate Asset Management
Julie Yun, Capital Project Manager

SUBJECT: Fishermen’s Terminal ADA Compliance Phase 2 – Additional Funding and Construction Authorization (C801198)

Amount of this request: \$1,100,000

Total estimated project cost: \$2,890,000

ACTION REQUESTED

Request Commission authorization for the Executive Director to: 1. Approve additional funding, and 2. Advertise and execute a major public works construction contract for the completion of the U00721 Fishermen’s Terminal ADA Compliance Phase 2 project (CIP# C801198). This request is in the amount of \$1,100,000 for a total project authorization of \$2,890,000.

EXECUTIVE SUMMARY

The Port of Seattle entered into a settlement agreement on October 5, 2020, to address alleged Americans with Disabilities Act (ADA) related deficiencies at the Fishermen’s Terminal (FT) parking lot area south of the Fishermen’s Center Building. The required non-structural alteration improvements (relating to the number of accessible spaces and routes, and the height and visibility of signage) were completed within 120-days of the effective agreement date by Marine Maintenance through 2020 expense funds.

The additional required structural alterations such as regrading, filling, demolition, reconstruction, and other significant remediation to address remaining ADA-related issues were completed in January 2023 by Port Construction Services (PCS). The post-construction survey performed by University of Washington Accessible Design and Innovative Inclusion (ADII) revealed areas that remain out of compliance with 2010 ADA Standards for accessible design that will require re-work (Phase 2).

This request will allow staff to complete this re-work scope through the Phase 2 FT ADA Compliance project and fully deliver on Port commitments per the litigation settlement agreement.

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JUSTIFICATION

This project is driven by the litigation settlement agreement that commits the Port of Seattle to deliver improvements at Fishermen’s Terminal to comply with 2010 ADA design standards. Port Construction Services (PCS) executed construction of these improvements in the original Phase 1 FT ADA Compliance project in 2023. To demonstrate ADA compliance of the Phase 1 work, a post-construction survey was performed by University of Washington ADII. This survey showed the cross slopes and running slopes for some ramps, sidewalks, and parking areas to be out of compliance with the 2010 ADA design standards. Phase 2 of the FT ADA Compliance project will address the re-work of these areas that remain out of compliance from the original (Phase 1) project scope.

Forward progress with Phase 2 re-work is currently paused until additional funds are available and construction authorization is approved. Reason(s) for this request are as follows:

1. **Tenant Impact:** Minimize tenant impact through outreach and construction phasing.
2. **Funding:** Construction and post-construction survey of Phase 1 was completed in 2023. As such, current funding authorization for the original project scope has been exhausted.
3. **Compliance:** Phase 1 construction performed by Port Construction Services did not meet full ADA compliance requirements per the project design. Phase 2 re-work will be required to meet full ADA compliance.
4. **Litigation:** The conditions of the Litigation Settlement Agreement have not been met, as Phase 1 construction did not meet full ADA compliance per project design.

To mitigate risk and ensure successful Phase 2 execution, the project team will incorporate changes to the original Phase 1 construction as follows:

1. **Cost Controls:** The construction resource will be procured via Major Public Works Construction contract, thereby establishing contractual accountability and cost control mitigation against potential re-work needs.
2. **ADA Assistance:** Engagement of the new Port Facilities Access Program Manager for review and guidance through the duration of the project.
3. **Tenant Impact Mitigation:**
 - a. External relations outreach and coordination.
 - b. Additional tenant-specific communication by on-site Real Estate and Maritime Operations staff.
 - c. Construction contract terms to include access and phasing accommodation.
 - d. Timing of work to commence October 2024 after busy season.
 - e. Internal coordination to limit conflict with other projects occurring at Fishermen’s Terminal.

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Diversity in Contracting

Design development was performed through the Port’s Infrastructure Indefinite Delivery Indefinite Quantity (IDIQ) consultant contract. The WMBE goal for this contract was set at 18% and the current diversity in contracting utilization for the Service Directive is at 86%.

The project team will be in collaboration with the Diversity in Contracting Department to establish a Women and Minority-owned Business Enterprise (WMBE) aspirational goal for the Major Construction contract.

DETAILS

Scope of Work

Scope of work under this project are:

- (1) Conduct project outreach and develop construction phasing to minimize tenant impact.
- (2) Develop bid documentation to advertise and execute a major public works construction contract.
- (3) Construction execution. Planned work includes sidewalk and roadway demolition, reconstruction, pavement overlays, pavement markings, signage installation, and landscaping.

Schedule

Activity

Commission design authorization	2021 Quarter 2 (complete)
Commission construction authorization	2022 Quarter 1 (complete)
Commission authorization for additional funds #1	2022 Quarter 4 (complete)
Phase 1 Substantial Completion	2023 Quarter 1 (complete)
Commission request for additional funding and construction authorization	2024 Quarter 2
Construction start	2024 Quarter 3
In-use date	2024 Quarter 4

Cost Breakdown

	This Request	Total Project
Design	\$50,000	\$350,000
Construction	\$1,050,000	\$2,540,000
Total	\$1,100,000	\$2,890,000

ALTERNATIVES AND IMPLICATIONS CONSIDERED

Alternative 1 – Delayed/No Action.

Cost Implications: Potential reduced costs for avoided work but potential for increased costs related to enforcement of Settlement Agreement.

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Pros:

- (1) Preserve Port capital funding and resources for other priority projects and financial initiatives.

Cons:

- (1) Would not comply with the Port’s settlement agreement to address ADA concerns.
- (2) Could potentially increase safety risk to customers and visitors.

This is not the recommended alternative.

Alternative 2 – Release additional funding and proceed with construction utilizing Port Construction Services.

Cost Implications: Requires allocation of \$1,550,000 in the Capital Plan

Pros:

- (1) Complete Phase 2 construction and comply with the Port’s agreement to address ADA concerns.

Cons:

- (1) Limited temporary construction impacts.
- (2) Potential resource constraint to meet target timeframe.
- (3) Potential for escalating project cost in the case of future re-work.

This is not the recommended alternative.

Alternative 3 – Release additional funding and proceed with construction utilizing major public works construction contract.

Cost Implications: Requires allocation of \$1,100,000 in the Capital Plan

Pros:

- (1) Complete Phase 2 construction and comply with the Port’s agreement to address ADA concerns.
- (2) Contractual accountability for full execution of design at fixed lump sum cost.

Cons:

- (1) Limited temporary construction impacts.

This is the recommended alternative.

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FINANCIAL IMPLICATIONS

<i>Cost Estimate/Authorization Summary</i>	Capital	Expense	Total
COST ESTIMATE			
Original estimate	\$1,500,000	\$30,000	\$1,530,000
Previous changes – net	\$250,000	\$10,000	\$260,000
Current change	\$1,100,000	0	\$1,100,000
Revised estimate	\$2,850,000	\$40,000	\$2,890,000
AUTHORIZATION			
Previous authorizations	\$1,750,000	\$40,000	\$1,790,000
Current request for authorization	\$1,100,000	0	\$1,100,000
Total authorizations, including this request	\$2,850,000	\$40,000	\$2,890,000
Remaining amount to be authorized	\$0	\$0	\$0

Annual Budget Status and Source of Funds

This project has been included in the 2024 Plan of Finance under C801198 FT ADA Compliance with a total cost of \$1,750,000. The additional cost will be covered by C80002 Maritime Division Reserve.

This project is funded by the Tax Levy.

Financial Analysis and Summary

Project cost for analysis	\$2,890,000
Business Unit (BU)	Maritime Portfolio Management
Effect on business performance (NOI after depreciation)	Annual depreciation will increase by approximately \$114K based on an estimated 25-year service life, thereby reducing the NOI by the same amount.
IRR/NPV (if relevant)	No incremental revenue. The NPV is the present value of the project cost.

Future Revenues and Expenses (Total cost of ownership)

N/A

ADDITIONAL BACKGROUND

None.

ATTACHMENTS TO THIS REQUEST

- (1) Presentation slides

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PREVIOUS COMMISSION ACTIONS OR BRIEFINGS

November 29, 2022 - The Commission authorized for the Executive Director to acquire additional funding for the construction of the Fishermen’s Terminal ADA Compliance project in the amount of \$600,000.

March 22, 2022 – The Commission authorized for the Executive Director to proceed with the Construction of the Fishermen’s Terminal ADA Compliance Project in the amount of \$850,000.

April 13, 2021 - The Commission authorized for the Executive Director to proceed with the design development and permitting phase of the Fishermen’s Terminal ADA Compliance in the amount of \$215,000.

September 22, 2020 – The Commission authorized Settlement Agreement for Accessibility Improvements at Fishermen’s Terminal in the amount of \$1,530,000.