

PORT OF SEATTLE
MEMORANDUM

COMMISSION AGENDA

Item No. 6b

Date of Meeting March 31, 2009

DATE: February 27, 2009

TO: Tay Yoshitani, Chief Executive Officer

FROM: Elizabeth Leavitt, Director, Aviation Environmental Programs
Paul Agid, Environmental Program Supervisor, Aviation Environmental Programs
Susan Ridgley, Port of Seattle Senior Legal Counsel

SUBJECT: Authorization to execute *Fourth Addendum to Participation Agreement for Cleanup of Seattle Tacoma International Airport Jet Fuel Facility*, a multi-party agreement for remediation of the United Airlines and Continental Airlines Former Fuel Farms Area at Seattle Tacoma International Airport.

ACTION REQUESTED

Request for Port Commission authorization for the Chief Executive Officer to execute an agreement between the Port, United Airlines, Continental Airlines, and Olympic Pipeline Company for remediation of ground water contamination associated with past operations of the United and Continental Fuel Farms at Seattle-Tacoma International Airport. The Port's allocated share of the total expenditures under the agreement is \$127,380.

SYNOPSIS

Operation of the United Airlines and the Continental Airlines former underground jet fuel storage facilities released fuel contamination to soil and ground water at Seattle-Tacoma International Airport. Investigation and remediation of the contaminated site is required by state law, and has been conducted by United, Continental, Olympic Pipeline Company, and the Port under a *Participation Agreement for Cleanup of Sea-Tac International Airport Jet Fuel Facility* (Participation Agreement) and three agreement addenda, since 1995.

The requested action would authorize execution of the Fourth Addendum to the Participation Agreement, and, thereby, authorize deposit of Port funds into a project escrow account for future payment of environmental remediation costs.

The total value of the agreement is \$600,000. The Port's allocated share of the total value is 21.23%, equaling an expenditure of \$127,380, previously approved by the Commission in its 2009 Port Environmental Reserve spending authorization, December 15, 2008.

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BACKGROUND

United Airlines and Continental Airlines operated underground jet fuel storage facilities on adjacent leaseholds at the airport beginning in the late 1950s (United) and 1970s (Continental). Fuel was supplied to the fuel farms by an underground delivery system owned and operated by Olympic Pipeline Company. The Port provided storm water and industrial waste water facilities in support of tenant operations in the fuel farms area.

In 1988 Continental and United discovered jet fuel contamination in soil and ground water associated with each of their facilities. Subsequent investigations suggested that fuel had been released to the environment from both facilities, and, potentially, from the Olympic fuel delivery facilities and Port industrial waste water management facilities that serviced the fuel farms. Evidence also suggested that the released fuels and wastes had become commingled in the subsurface. Remediation of the contamination is required by state law.

In 1995 the four parties entered into the Participation Agreement to fully investigate and appropriately remediate the site consistent with state law. The agreement allocated responsibility among the parties based on observed evidence of release sources: Continental – 46.34%, United - 21.23%, Port – 21.23%, and Olympic Pipeline – 11.20%.

Three subsequent Addenda to the Participation Agreement were issued in 1996, 1997, and 2001 to perform additional sequential phases of work and address new technical findings. The original party percentage allocations remained constant, and are unchanged in the Fourth Addendum.

This request asks the Commission to authorize execution of the Fourth Addendum to the Participation Agreement, permitting the next phase of environmental remediation at the site that is related to remediation of groundwater contamination. While the parties expect the work conducted under the Fourth Addendum to complete site remediation, that outcome is not assured, and work beyond the scope of that described in the Fourth Addendum may be required in the future.

BUSINESS PLAN OBJECTIVES

Remediation of the United and Continental Fuel Farms area will minimize to acceptable levels threats to the environment caused by prior tenant and Port operations. The product of these efforts, as well as the attendant compliance with regulatory mandates, management of Port liabilities, and support of the local community, aligns with the goals and objectives of the Aviation Division Business Plan.

ALTERNATIVES CONSIDERED / RECOMMENDED ACTION

The following alternatives were considered for accomplishing the work described in the Scope of Work:

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Alternative 1

Do not execute the agreement. If the Port chose to not execute the agreement, the primary responsible parties would be unlikely to complete the remediation. In that event state regulatory agencies could mandate the work be accomplished, either by the Port under an enforcement or similar order, or by the agency, leaving the Port as the sole payer of remediation costs, subject to future legal action to recover costs from others, and the associated litigation costs and risks.

Alternative 2

Execute the agreement as currently negotiated and written. This alternative will result in continuation and completion of remediation of contaminated Port property, as required by state law, for an expenditure of less than one quarter of the total remediation cost. This is the recommended alternative.

SCOPE OF WORK

The environmental investigation and remediation that is the subject of the proposed agreement is required to achieve project closure under state law. The scope of work to be performed under the agreement includes well installation and monitoring to delineate ground water contaminant plume boundaries; design, installation and operation of dual phase extraction ground water remediation technology; confirmation monitoring; associated reporting and agency negotiation; and regulatory and project closure. Should work performed under the fourth Addendum not complete site remediation, additional agreement addenda might be necessary.

FINANCIAL IMPLICATIONS

Cost Estimate

The estimated total project expenditure is \$600,000, which includes a \$100,000 contingency for unknown conditions that are often encountered in the performance of underground remediation work. The Port's allocated share of the project cost is \$127,380 including the contingency. The allocated share of the Port's 2009 cost is \$106,150, to be deposited into escrow within thirty days of agreement execution. The Port's share of the contingency will not be deposited into escrow without further action of the parties to the agreement.

Source of Funds

Funds for the expenditure required on execution of the agreement have previously been accrued as Environmental Reserves and charged to expense in prior years. The United and Continental Fuel Farms area remediation program was included within the Commission's 2009 Environmental Reserve spending authorization, approved on December 15, 2008.

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COMMUNITY / CUSTOMER / ORGANIZATION IMPACTS

Elimination of unacceptable levels of environmental risk caused by the presence of contaminants in soil and groundwater is not only required by state and federal law, it is the hallmark of responsible environmental stewardship, from the perspectives of both the surrounding residential and business communities and the customers we serve.

Execution of the Fourth Addendum to the Participation Agreement will trigger completion of cleanup of ground water contamination associated with operation of historical fuel storage facilities located at the airport.

PROJECT SCHEDULE

This authorization enables expenditures of environmental reserve funds in 2009.

Previous Commission Action

Investigation and remediation of the United and Continental former fuel farms area via the Participation Agreement has been included within the overall Port Environmental Reserve program authorization since at least 1996, as follows:

On February 27, 1996, the Commission approved the expenditure of \$2,325,000 for eleven projects during 1996.

On July 10, 2001, the Commission approved the expenditure of \$5,100,000 for nine Aviation projects and six Seaport projects during 2001.

On March 11, 2003, the Commission approved the project-wide authorization expenditure of \$4,999,000 for environmental cleanup action on Port properties and for potential environmental liabilities during 2003.

On March 23, 2004, the Commission approved the project-wide authorization expenditure of \$8,081,000, for environmental cleanup action on Port properties during 2004.

On March 23, 2005, the Commission approved the project-wide authorization expenditure of \$8,102,222, for environmental cleanup action on Port properties during 2005.

On December 13, 2005, the Commission approved the project-wide authorization expenditure of \$8,705,760 for environmental cleanup action on Port properties during 2006.

On June 27, 2006, the Commission approved an increase in the 2006 project-wide authorization for environmental cleanup action on Port properties, to \$14,705,760.

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On December 12, 2006 the Commission approved the project-wide authorization expenditure of \$7,756,549 for environmental cleanup action on Port properties during 2007.

On December 1, 2007 the Commission approved the project-wide authorization expenditure of \$11,833,000 for environmental cleanup action on Port properties during 2008.