

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

**COMMISSION AGENDA**

Item No. 5d  
Date of Meeting December 15, 2009

**DATE:** November 19, 2009

**TO:** Tay Yoshitani, Chief Executive Officer

**FROM:** Stephanie Jones Stebbins, Senior Manager, Seaport Environmental Programs  
Kathy Bahnick, Manager, Seaport Environmental Programs  
Fred Chou, Capital Project Manager

**SUBJECT:** Project-specific professional service contract to support negotiation of and implementation of a Washington State Department of Ecology Agreed Order for the remediation actions at Terminal 91

**Estimated Contract Cost: \$500,000-700,000**      **Source of Funds: Tax Levy/Environmental Reserves**

**ACTION REQUESTED:** Request Port Commission to authorize the Chief Executive Officer to execute a professional services contract for consultant services ranging from approximately \$500,000-700,000 to support negotiation and implementation of a Washington State Department of Ecology (Ecology) Agreed Order for the remediation actions at Terminal 91.

**SYNOPSIS:**

The purpose of this contract is to provide a broad array of consultant support services for remedial action activities at Terminal 91, including the design and planning of the cleanup, construction support, and limited post-construction sampling and monitoring.

**PROJECT DESCRIPTION AND JUSTIFICATION:**

The Terminal-91 Site (T-91 Site), as currently defined, consists of a former tank farm that was constructed in the 1920s. A portion of the Site was operated as a dangerous waste treatment and storage facility under a Resource Conservation and Recovery Act (RCRA) permit, from 1980 until its closure in the late 1990s. The remainder of the Site was operated as a fuel storage facility until 2005.

The T-91 Site is regulated under both the RCRA permit and an Agreed Order. The Port of Seattle (Port) and two other parties, Philip Services and Pacific Northern Oil (PNO), entered into the Agreed Order for the site in 1998 (the "1998 Agreed Order"). Both Philip Services and PNO subsequently went out of business, leaving the Port as the sole responsible party on the Agreed Order. Under the 1998 Agreed Order, the Port was required to develop a Remedial Investigation (RI), Feasibility Study (FS) and a Cleanup Action Plan (CAP).

For the last several years, the Port has been negotiating a replacement RCRA Permit and Agreed Order with Ecology for the RI, FS and CAP development. The most significant change in these replacement documents is that they will extend the geographic definition of the Site beyond the tank farm to encompass the entire Terminal 91, including the piers and all upland properties owned by the Port. The negotiation is nearly complete, and we expect that within the next several months we will be asking for Commission authorization to enter into this RCRA Permit and Agreed Order (the "2009 Agreed Order").

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The former tenants and/or the Port, beginning in the 1980s and continuing to the present time, have performed numerous environmental investigations at the T-91 Site. A summary of these investigative activities can be found in the 2007 final draft RI report and in the 2009 final draft FS report. Port submitted to Ecology the final draft RI report to Ecology in August 2007 and submitted the final draft of the FS report in November 2009. The FS report sets forth a range of potential cleanup alternatives and their estimated costs, and a cleanup action was recommended for implementation. Once the RI and FS are approved, a Cleanup Action Plan (CAP) will be developed using the information generated in the FS. The CAP will identify the cleanup approach selected by Ecology. Sometime in 2010, Ecology expected to issue a new RCRA Permit and Agreed Order (the "2010 Agreed Order") for the Port to conduct the cleanup action alternative that is selected.

An ecology lead public comment period for the final draft RI/FS report is planned for the beginning of January 2010, so that community or public concerns can be addressed prior to preparation of the CAP. This public comment period will also address the 2009 RCRA permit and Agreed Order.

The 2009 draft FS report recommended a cleanup action alternative based on Model Toxics Control Act (MTCA) standards and selection process. The proposed cleanup action consists of the following actions:

- Former tank farm-- recovery of free-phase fuel from the groundwater, removal of existing tank bases and other subsurface structures such as concrete pavement and footings, installation of a new asphalt cap and installation of a slurry wall
- Solid Waste Management Unit 30 — limited excavation of diesel-contaminated soil
- Underground fuel pipelines — cleaning and decommissioning in place
- Groundwater plume — well installation and monitoring to confirm that demonstrated natural attenuation processes are continuing to break down fuel-related chemicals in groundwater.

Based upon feedback during the public comment period, Ecology will consider the proposed cleanup actions and will determine whether modifications are necessary for the FS to be approved.

### **PROJECT SCOPE OF WORK AND SCHEDULE:**

The scope of the anticipated remediation-consulting contract includes the following:

1. Pre-Design, Planning and Communication
2. Compliance Activities
  - a. Complete any remaining scope of the 1998 and 2009 Agreed Order and support the Port in negotiating with the Washington Department of Ecology the scope of a 2010 Agreed Order.
  - b. Prepare environmental reports as required by the Orders
3. Design cleanup per Ecology-approved Cleanup Action Plan
4. Support Port in procuring a construction contractor to perform the cleanup work
5. Provide oversight of construction contractor
6. Conduct Post-Construction confirmatory sampling
7. Prepare long-term operations and monitoring plan and perform the first year of operation and monitoring

Work is anticipated to begin in 2010 and be completed in 2014. Long-term monitoring under a separate procurement will continue beyond 2014. Design work will not begin until the CAP is finalized, a new

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Agreed Order for the cleanup is negotiated and Commission approves the signing of the new Agreed Order.

A separate request for Commission authorization to procure a construction contract will be sought during the design-phase.

### **STRATEGIC OBJECTIVES:**

This project will be conducted in accordance with the Port's environmental objectives and will be in full compliance with the Department of Ecology's Agreed Order. Cleanup of the site will be consistent with potential T-91 improvements, as they are currently understood.

### **BUSINESS PLAN OBJECTIVES:**

Proceeding with this project ensures compliance and continued cooperation with Ecology and will allow productive use of the property in the future.

### **FINANCIAL ANALYSIS:**

#### **Cost Estimate**

The cost for professional consulting and design services will be based on Ecology's selected alternative and the terms and schedule laid out in the Agreed Orders. Based on the current preferred alternative, we estimate that this contract will be in the range of \$500,000 to \$700,000.

#### **Source of Funds**

The Port has obtained an Ecology grant of \$220,000 for a portion of the investigation work. We will apply for additional grant funding for the design and construction work. All costs will be paid from environmental reserves and charged to expense in accordance with Port Policy AC-9. The Port's Tax Levy will pay the costs for the environmental cleanup project that are not covered by grants. This site was included in the Commission's 2010 environmental reserve spending authorization, anticipated to be approved on November 30, 2009. Any additional environmental reserve funds that may be required as the project moves forward will be reported to the Commission via routine environmental reserve reports and spending authorization requests.

### **SUSTAINABILITY AND LIFE CYCLE COSTS:**

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 CONSIDERED AND THEIR IMPLICATIONS:**

- Wait until the 2010 Agreed Order is issued to procure services. The Agreed Order will include project schedules that must be adhered to or the Port could face enforcement action. Delaying procurement could result in missed deadlines and possibly enforcement action.
- Procure only pre-design, planning, and communication support until a cleanup alternative is selected and approved by Ecology. This alternative would allow Port to initiate work at the time the 2010 Agreed Order is signed, but an additional procurement would be necessary for the design and construction support work. This would incur additional costs to go through a second procurement

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process. In addition, it could result in a different consultant being awarded the second phase of work. Consistency within and between the phases of work is important in order to meet the exacting standards and deadlines in the pending 2009 and 2010 Agreed Orders.

- Procure all services for planning, pre-design, design, agency reporting, construction support, development of operation and maintenance plans and performance of first year of operation and maintenance. Starting the procurement process now will result in signing a contract with the consultant shortly before the 2009 Agreed Order is signed. The Port can then move forward on a timely basis to meet the provisions of the Agreed Order with the selected consultant. **This is the preferred alternative**