

PORT OF SEATTLE
MEMORANDUM

COMMISSION AGENDA

Item No. 5a

Date of Meeting September 7, 2010

DATE: August 27, 2010

TO: Tay Yoshitani, Chief Executive Officer

FROM: Ralph Graves, Managing Director, Capital Development Division

SUBJECT: Change Order #001 for the 2010 Airfield Improvement Projects – Contract 2
Contract MC-0316640

AMOUNT OF THIS REQUEST: No cost – Time extension

SOURCE OF FUNDS: N/A

ACTION REQUESTED:

Requests authorization for the Chief Executive Officer to issue Change Order Number 001 for the 2010 Airfield Improvement Projects – Contract 2, for a non-compensatory time extension of 353 calendar days to complete the South 160th Street Bridge Removal and Miller Creek Restoration portions of the contract.

SYNOPSIS:

The 2010 Airfield Improvement Projects (AIP) – Contract 2 is a combination of smaller storm water and wetland mitigation projects related to the 3rd Runway environmental permits.

South 160th Street Bridge Removal and Miller Creek Relocation Reach Revision projects include significant work to be performed directly within Miller Creek. The Hydraulic Project Approval (HPA) permit specifies that work below the ordinary high water line (OHWL) shall only occur between a June 15 and September 30 “fish window.” These items of work are affected:

- Removal of the concrete box culvert and the 160th Street bridge along with the restoration of the Miller Creek channel in the culvert/bridge removal area and;
- Enhancement of the relocated section of Miller Creek with additional gravel and wetland planting.

Attempts to include all stormwater and wetland related mitigation in a single contract and meet an acceptable timeline for the regulatory agencies resulted in a late overall start to the bid advertisement. Subsequent to the award of the contract, the contractor has notified the Port of the unavailability of critical materials to perform work within the stream and that proceeding

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without the materials on-hand would create the risk of extending the in-stream work beyond the HPA permit fish window. A change order is required to extend the completion dates for these two portions of the projects so they can be completed next year when the fish window reopens. Work has not started on either of these portions of the project.

There are no additional costs associated with this time extension. The contractor has agreed to postpone this work until next year at no additional cost.

BACKGROUND:

On January 12, 2010 the Commission authorized the advertisement and bidding of the 2010 AIP Contract 2 project. On June 1, 2010 the Commission was notified of the issues with the Pond "M" portion of the project and staff requested permission to remove that portion of the project and proceed with the bid. The contract was bid on June 15 and awarded on July 16.

On August 4, 2010, the contractor notified Port staff that they had checked with area suppliers and the contract specified coir logs were not available until September 13, 2010. Therefore, the contractor did not feel it would be able to complete the in-stream Miller Creek portions of the work by September 15, 2010 (Contract milestone). Since coir logs are used to form the creek embankments, the contractor would be unable to proceed with a majority of the work until after the coir logs were installed. After Port staff confirmed the material supply situation, a schedule analysis was performed on the Miller Creek portions of the work and it was decided that proceeding ahead this year posed a great risk of not being complete the in-stream work even if the contract milestone were extended to September 30 (HPA permit fish window end date). Staff concluded that the in-stream work associated with the removal of the 160th Street bridge/culvert might be possible to complete, but only if ideal weather conditions were received up until the completion of work in late September. Additionally, staff concluded there was no possibility of completing the enhancement of the relocated section of the creek by September 30. Ultimately staff concluded that delaying the 160th Culvert Removal and Miller Creek Relocation Reach Revision projects was the best alternative rather than risk the likelihood of an environmental infraction and citation. If the work were delayed a year, the work could be performed earlier in the fish window and would lower the risk of environmental impacts due to lower water levels in the creek. The contractor's response to our request to provide a proposal to delay this work until the next in-water period (June 15, 2011) indicated no additional cost.

Both the 160th Culvert Removal and Miller Creek Relocation Reach Revisions are being performed to compensate for required mitigation functions not provided by the original Miller Creek Relocation project. The original Miller Creek Relocation project was completed in September 2004. Permitting agencies including the U.S. Army Corps of Engineers (COE), Washington Department of Ecology and Washington Department of Fish and Wildlife require that the outstanding compensatory mitigation be completed as soon as possible. Upon notification that the work would be delayed until 2011, COE expressed their concern and has

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indicated they will require additional mitigation due to the temporal impacts. The nature of the additional mitigation is currently under discussion with the COE. Once the scope is known, a separate scope and/or funding authorization may be requested of the Commission.

To remedy this situation staff evaluated two options, issue a Change Order to extend the contract or delete this scope of work and rebid this work next year. The option to extend the contract is being recommended.

CHANGE ORDER DESCRIPTION AND JUSTIFICATION:

The following information relates to the pending change order scope and cost:

Change Order No. 001

Scope of work: MODIFY the Contract milestones (as listed in Document 00800, SC-07.01) as follows:

- South 160th Street Culvert and Bridge Removal
 - The work, with the exception of planting, shall be completed in accordance with the Contract Drawings, within 45 consecutive calendar days after the start of work and shall be completed no later than August 31, 2011.
 - All in-water work, as defined on the Drawings and Specifications, must be complete no later than August 31, 2011.
 - Stream flow introduction, as defined in the Drawings and Specifications, must be started by August 31, 2011.
 - All planting shall be completed no later than December 1st, 2011.
- Miller Creek Relocation Reach Revisions
 - The work, with the exception of planting, shall be completed in accordance with the Contract Drawings, within 30 consecutive calendar days after the start of work and shall be completed no later than September 15, 2011.
 - All planting shall be completed no later than December 1st, 2011.

Change Order Amount:

\$0.00

Time Extension:

353 calendar days

- **Justification:** The Port could be partly deemed responsible because the entire bid advertisement process started later than anticipated. The Contract advertised on May 18, 2010, much later than anticipated due to the issues related to Pond "M." Bids were opened on June 15, and on July 16, 2010, the Contract was awarded to SCI Infrastructure. It was not common knowledge to Port staff at the time of bid that the specified coir logs required such a long lead time.

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- **Consequences of not proceeding:** Port staff has concluded that if the Contractor was to start the work this year without the coir logs on-site, the risk of not being able to complete the in-water work within this year's fish window is extremely high. The consequences associated with not completing the work within timeframes required by the HPA are considered significant. In-stream work performed beyond the HPA window could impact fall salmon migration and spawning. In addition, the potential for heavy rainfall and higher stream flows would increase the risk of bank failure, stream erosion and downstream sedimentation. Deleting this work and re-bidding it next year remains an option but is not being recommended by staff. This approach would further increase regulatory agency concerns as re-bidding the work would lessen the surety that this work will actually be done. Also, staff feels the bid price received on the work reflects an extremely good bidding climate as the bid for this work was 47% under the Engineer's Estimate.

FINANCIAL ANALYSIS:

This is a no-cost change order. No additional project funds are being requested as a result of this change order. The nature of the additional mitigation is currently under discussion with the COE. Once the scope is known, a separate scope and/or funding authorization may be requested of the Commission.

CONTRACT INFORMATION: The following information relates to the contract and competitive award:

Contract award date:	July 16, 2010
Original period of performance:	July 16, 2010 – December 13, 2010
Previous contract extensions:	0 Days
Contract extension this change order:	353 Days
Current Contract Completion Date:	December 13, 2010
This request, Change Order No. 001 Completion Date	December 1, 2011
Original contract amount:	\$939,725.00
Previous Change Orders Executed:	\$0.00
<u>Current contract amount</u>	<u>\$939,725.00</u>
<u>This request, Change Order No. 001</u>	<u>\$0.00</u>
Revised contract amount:	\$939,725.00

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ALTERNATIVES CONSIDERED AND THEIR IMPLICATIONS:

Alternative 1: Remove the Miller Creek portions of the work from this contract and rebid it at a later date. This approach would increase regulatory agency concerns as re-bidding the work would lessen the surety that this work will actually be done. This is not a recommended course of action.

Alternative 2: Issue the Change Order. If the work were delayed a year, the work could be performed earlier in the fish window and would lower the risk of environmental impacts due to lower water levels in the creek. Also, staff feels the bid price received on the work reflects an extremely good bidding climate as the bid for this work was 47% under the Engineer's Estimate. This is the recommended alternative.