

PORT OF SEATTLE
MEMORANDUM

COMMISSION AGENDA

Item No. 5b

Date of Meeting May 18, 2010

DATE: May 6, 2010

TO: Tay Yoshitani, Chief Executive Officer

FROM: Ralph Graves, Managing Director, Capital Development Division

SUBJECT: Change Order No. 015 for the East Marginal Way Grade Separation Project
Contract MC-0316219

AMOUNT OF THIS REQUEST: \$430,000.00

SOURCE OF FUNDS: Project Construction Contingency

ACTION REQUESTED:

Requests authorization for the Chief Executive Officer to issue Change Order No. 015 for the East Marginal Way Grade Separation Project for the Not to Exceed amount of \$430,000.00.

SYNOPSIS:

The contract includes an allowance of \$100,000 for soil disposed, but the total cost of disposing both highly contaminated soil and geotechnically unsuitable low-level contaminated soil is now expected to exceed this amount. A change order is required to compensate the contractor for the actual costs incurred for contaminated soils removal and disposal in excess of the \$100,000 allowance. Because the final magnitude of the change will not be known until all of the excavation is completed, this change order will be issued for a Not to Exceed amount of \$430,000 which covers the costs to date and our estimate for the disposal cost for any remaining excavations.

Environmental regulations allow the re-use on-site of low-level contaminated soil, but engineering unsuitability and lack of storage space have led to the excess. Port staff continues to investigate other alternatives to off-site soil disposal in an effort to mitigate further costs and keeping with the Port's commitment to sustainability of resources.

The funds to pay for this change order are part of the project construction contingency funds that were included in previously approved authorizations of \$50,700,000. No additional project funds are being requested as a result of this change order.

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BACKGROUND:

This project is for the construction of a new vehicular overpass structure to separate vehicular traffic from rail traffic at the intersection of lower Spokane Street and East Marginal Way. The project includes:

- Minor improvements at the existing street connections
- Realignment of a portion of Spokane Street surface street to pass under the new overpass
- Installation of an earthquake drain system under the retained fill
- Utility relocation and construction of a water quality vault

The contract included Bid Item 26 with a \$100,000 allowance originally intended to provide payment for highly contaminated soil requiring disposal. However, in addition to some highly contaminated soils, the excavation has also uncovered soils with low-levels of contamination which were found to be geotechnically unsuitable for use within the project. The contract plans do not include any direction as to how this type of low-level contaminated soil should be addressed. A large amount of the excavated soil fell into this category and was slated for off-site disposal.

Port staff directed the contractor to stockpile this material in order to mitigate the amount of soil requiring removal from the jobsite while investigating other options for reuse of the soil. Through coordination with the contractor, environmental and geotechnical agents, the City of Seattle, and the Designer of Record, an agreement has been reached regarding areas where a large amount of the remaining soil can be reincorporated into the site. The remaining soil has been made available to other Port properties, but no other long-term storage location or use was identified within the Port. The amount of project space available for stockpiling is insufficient to hold all of the excavated soil nor is it possible to reincorporate all of the excavated soil into the project so the contractor was directed to proceed with off-site disposal for a portion of the least desirable low-level contaminated soils as the stockpiles were beginning to infringe upon the project work areas.

CHANGE ORDER DESCRIPTION AND JUSTIFICATION:

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

Change Order No. 015

- **Scope of work:** Provides contractual mechanism to compensate the contractor for contaminated soil removal and disposal in excess of the \$100,000 allowance in the contract under Bid Item 26. Amount is based on actual costs incurred to date plus an

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estimated 5% of the remaining excavated soils being contaminated at a level requiring off-site disposal. The contractor shall proceed for a total amount Not to Exceed \$430,000.00.

A. Contaminated Soil Removal and Disposal	\$530,000.00
B. Bid Item 26 allowance	(\$100,000.00)

Not to Exceed Change Order Amount:	\$430,000.00
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- **Justification:** Specification 2-15.3(C).3.01A identifies "shaft excavations, trench excavations, drainage vault excavations, and structural earth wall excavations, among others," to be areas of "Potential, Suspected, or Confirmed Contaminated Soil Areas." This specification corresponds to contaminated areas identified in pre-construction environmental reports. The contract provided a common bid allowance of \$100,000 as an estimate to be included in the Bid Package for this force account work (BI 26). Port staff has worked with the contractor to stockpile and re-use as much of the low-level contaminated soils on site as possible. This change addresses the payment for soils with low-level contamination that was geotechnically unsuitable for re-use on site and could not be stockpiled due to space limitations in excess of the \$100,000 allowance within Bid Item 26.
- **Consequences of not proceeding:** The Port has coordinated with the contractor to reincorporate as much of the soil as possible onsite, however there is not enough space left on site to stockpile additional low-level contaminated soils. Without space to stockpile these soils, excavations would have to be stopped and the project would be delayed until other stockpile areas could be found resulting in time and cost escalation to the project. The estimated disposal costs associated with not reincorporating any of this soil into the project is approximately \$1.4M.

FINANCIAL ANALYSIS:

The funds to pay for this change order are part of the project construction contingency funds that were included in previously approved authorizations of \$50,700,000. No additional project funds are being requested as a result of this change order.

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

Contract award date:	October 23, 2009
Original period of performance:	October 23, 2009 – September 2, 2011
Previous contract extensions:	0 Days
Contract extension this change order:	0 Days

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Current Contract Completion Date: September 2, 2011

Original contract amount: \$18,250,482.70

Previous Change Orders Executed: -\$48,087.97

Current contract amount \$18,202,394.73

This request, Change Order No. 015 \$430,000.00

Revised contract amount: \$18,632,394.73