

PORT OF SEATTLE
MEMORANDUM

COMMISSION AGENDA

Item No. 5c

Date of Meeting October 12, 2010

DATE: October 1, 2010

TO: Tay Yoshitani, Chief Executive Officer

FROM: Elizabeth Leavitt, Director, Aviation Environmental Programs
Paul Agid, Manager, Aviation Environmental Programs
Don Robbins, Sr. Environmental Program Manager

SUBJECT: Amendment of the Professional Services Agreement for environmental investigations, remediation, and associated regulatory coordination activities for the Lora Lake Apartments Site

Amount of This Request: \$950,000

Source of Funds: ADF

Total Contract Cost: \$2,505,315

**Estimated Number of Workers
Employed:** N/A

ACTION REQUESTED:

Authorization for the Chief Executive Officer to amend the Professional Service Agreement with Floyd|Snider for environmental investigation and evaluation of remediation methods for the Lora Lake Apartments Site in the amount of \$950,000 (to increase the contract from \$1,555,315 to \$2,505,315) and to provide notification to the Port of Seattle Commission, in accordance with RCW 53.19.060, that the amended amount exceeds 50% of the original contract amount.

SYNOPSIS:

Soil and ground water at the Lora Lake Apartments site was contaminated prior to the Port of Seattle gaining ownership. The contamination is the result of former industrial operations from the 1940s – 1980s. Remediation of the contamination is required by state law, and is necessary for productive reuse of the site by future redevelopment or other actions.

The Port has entered into an Agreed Order with the Washington State Department of Ecology (Ecology) under which the Port will perform a Remedial Investigation (RI) and Feasibility Study (FS). The results of the RI/FS will form the basis for site remediation.

Based on public comments received on the draft RI/FS workplan, Ecology has required an expansion of the investigation to include substantial sample collection and analysis adjacent to and in Lora Lake, located to the southeast of the Apartment site. Authorizing the work now

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allows staff to perform the necessary planning so that results will be available next summer. The value of the additional work is \$950,000, an increase of 61% over the estimated value of the previous work scope of \$1,555,315. This memo constitutes notification that the amended amount exceeds 50% of the original contract amount, in accordance with RCW 53.19.060.

Authorization of expenditures for the Lora Lake Apartments property environmental management activities was previously approved by the Commission in its 2010 Portwide Environmental Reserve spending authorization of November 30, 2009. The additional spending will be funded from the Airport Development Fund. The majority of additional spending required by Ecology will occur in 2011. The additional work and associated cost identified in this memo will also be listed within the 2011 Portwide Environmental Reserve authorization that will cover approximately 20 various environmental projects and come before the Commission near the end of 2010.

In accordance with RCW 53.19.060, this memorandum will be placed on file for public inspection at the Port's bid desk.

BACKGROUND:

The Lora Lake Apartments property was the site of a barrel cleaning facility in the 1940s – 1950s, and an auto wrecking yard in the 1960s – 1980s. Both of these types of industrial uses are known to have had high potential for releasing contaminants to the environment during those periods. During the construction of the apartment complex in 1986-87, the developer conducted environmental investigations and remediation that were approved by Ecology under laws in place at that time.

The Port purchased the Lora Lake Apartments property in 1998 in support of the development of the Seattle-Tacoma International Airport (Sea-Tac) Third Runway. In July 2007 the Port conducted environmental sampling to obtain information about site conditions for future property redevelopment. Sample data indicated significant contamination remained at the site. Further preliminary investigations confirmed those findings. These preliminary investigations defined the general character of the contamination. The Port used the results of these investigations as a basis for protecting against mobilization of contaminants from the site until appropriate site investigation and remediation were completed. The Port negotiated with Ecology to complete the necessary remaining detailed site investigations under Ecology supervision pursuant to a MTCA Agreed Order. The Commission authorized Port execution of the Agreed Order on June 9, 2001. The RI/FS Agreed Order incorporated a specific scope of work for conducting investigations to fully characterize the nature and extent of on-site and associated off-site contamination and evaluating appropriate site remediation methods. Ecology anticipates issuing, at the conclusion of the work required by the RI/FS Agreed Order, a second Agreed Order, for supervision of final remediation design and implementation.

In May of 2009, in anticipation of the MTCA Agreed Order, the Port issued a competitive procurement for qualified environmental consulting firms to provide all services necessary to

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design and implement a contaminated soil and ground water investigation and remediation of the Lora Lake Apartments property. The request for proposal stated that the estimated cost for the on-site investigation work was \$600,000. In addition it stated that, "Additional phases of investigation, and remediation of the site consistent with an anticipated Remediation Agreed Order, are included in the Scope of Work, but the value of those scope items and duration of Work cannot be estimated at this time." The original value of the executed contract was \$1,555,315 which included items negotiated in the final Agreed Order that were not a part of the \$600,000 estimate. To date two amendments to this contract have been executed to add subcontractors to the consultant team. These amendments both had dollar values of zero.

As a part of the MTCA process Ecology offered the RI Workplan for public comment. The comments received requested that data characterizing the condition of deep groundwater beneath the site be collected, and that characterization of Lora Lake be undertaken to determine if site runoff and stormwater drainage have caused contaminants to migrate to the lake. Based on these comments Ecology ordered the Port to expand the site boundary and investigation technical scope. The estimated value of the expansion of the investigation is \$950,000. The estimated cost of the originally scoped investigation was \$1,555,315. The value of the expanded work requirement and associated professional services agreement is greater than 50%.

Staff today requests that the Commission authorize execution of an amendment to the contract for \$950,000 to complete the additional work required by the Department of Ecology.

BUSINESS PLAN OBJECTIVES:

Remediation of the Lora Lake Apartments property will minimize to acceptable levels threats to the environment caused by historical property uses and operations. Completion of site remediation is required for cooperative Port – City of Burien property redevelopment. 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. Returning the property to productive use benefits both the Airport and the local community.

SCOPE OF WORK:

The principal elements of the addition work required by Ecology at the Lora Lake property are as follows:

- Prepare a lake specific RI/FS work plan.
- Perform a lake specific investigation as defined in the work plan.
- Incorporate the findings of this investigation into the final RI report
- Include the data collected from the lake parcel in the development of a Feasibility Study to determine the method of site remediation.

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FINANCIAL IMPLICATIONS:

Cost Estimate

The estimated amendment value is \$950,000. This would increase the total of this professional services agreement (PSA) to \$2,505,316.

Source of Funds

All costs will be accounted for as environmental reserves and charged to expense in accordance with Port Policy AC-9. As such, the Airport Development Fund will be the funding source.

The Lora Lake Apartments property remediation program was included within the Commission's 2010 environmental reserve spending authorization, approved on November 30, 2009. Additional environmental reserves will be established in compliance with Port Policy AC-9, in 2010. The updated reserve amount will be charged against the airfield cost center and will impact the cost per enplanement (CPE). Additional information will be reported to the Commission via routine environmental reserve reports and spending authorization requests.

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 Agreed Order scope expansion will commit the Port to remediate the Lora Lake Apartments property, and as appropriate, Lora Lake, in satisfaction of both regulatory and community interests.

PROJECT SCHEDULE:

Planning will begin this winter, and field work on the Lora Lake Parcel would be completed during the summer of 2011. The Agreed Order schedule estimates completion of the RI/FS scope of work by mid-year 2012.

ALTERNATIVES CONSIDERED / RECOMMENDED ACTION:

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

Alternative 1

Do not conduct the additional investigation of the Lora Lake property. This alternative could result in the issuance of a unilateral Ecology enforcement order to perform the work, which

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would eliminate Port control over investigation and remediation activity and cost. This alternative would also represent an unexplained rejection of expressed community concern. This is not the recommended alternative.

Alternative 2

Conduct the additional investigation of the Lora Lake property using Port resources, without outside consultant assistance. There are insufficient staff resources and expertise to conduct this remediation without consultant support. This is not the recommended alternative.

Alternative 3

Issue an additional procurement and potentially retain a different environmental consultant to perform the expanded investigation. The alternative was rejected because the continuity of the technical consultant is necessary to maintain the scientific integrity of the investigation of the expanded site. This is not the recommended alternative.

Alternative 4

Amend the existing professional services agreement with the current environmental consultant (Floyd|Snider) to conduct the additional investigative work on the Lora Lake property, as required by the Department of Ecology. This alternative will result in identification of any off-site contamination originating from the Lora Lake Apartments property, identification of appropriate management of any contamination in Lora Lake that originated at the apartment property, the satisfaction of Ecology directives as required by state law, and the affirmative response to concerns expressed by the community. **This is the recommended alternative.**

PREVIOUS COMMISSION ACTION:

On May 5, 2009, the Port Commission authorized procurement of environmental consulting services to support the Port's implementation of the Lora Lake Apartments property remediation.

June 9, 2009, the Port Commission authorized execution of an Agreed Order with the Washington State Department of Ecology, issued under the Model Toxics Control Act, for environmental investigation and remediation of the Lora Lake Apartments Site.

On November 30, 2009, the Port Commission approved 2010 expenditure of \$13,141,000 from Port Environmental Reserve funds, for environmental remediation of the various Port properties for which remediation funds have been reserved. The Lora Lake Apartments property was included in that authorization request.