

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

**COMMISSION AGENDA**

**Item No.** 6d

**ACTION ITEM**

**Date of Meeting** December 4, 2012

**DATE:** November 21, 2012

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

**FROM:** Elizabeth Leavitt, Director, Planning and Environmental  
Wayne Grotheer, Director, Aviation Project Management

**SUBJECT:** Remediation of Lora Lake Apartments Site

**Amount of This Request:** \$0

**Source of Funds:** Airport Development Fund

**Est. State and Local Taxes:** \$0

**Est. Jobs Created:** TBD

**Est. Total Project Cost:** \$12,355,000

**ACTION REQUESTED:**

Request Port Commission authorization for the Chief Executive Officer to: (1) execute an amendment to Model Toxics Control Act (MTCA) Agreed Order No. DE 6703 (2009 Agreed Order), for additional environmental investigation and remediation planning for the Lora Lake Apartments Site; (2) design and prepare construction documents for environmental remediation at the Lora Lake Apartment Site; and (3) amend the Professional Services Agreement (PSA) P-00316195 with Floyd/Snyder for environmental remediation of the Lora Lake Apartments Site by \$1.9 million from \$2,505,775 to \$4,405,775 and 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. Funding for this work was included in the 2013-2017 Environmental Remediation Liability Program.

**SYNOPSIS:**

The Lora Lake Apartments site has dioxin contamination in the soil as a result of earlier industrial operations, which must be remediated for the Port to be in compliance with state law and for future reuse of the site. The Port acquired the property as part of the Third Runway project due to its location. The presence of dioxin was not known at the time of the property acquisition but was identified from subsequent testing. Port staff have determined that the cost for remediation cannot be recouped from the previous operators and owners of the site.

In order to proceed with the cleanup of the site, the Port must sign an amendment to the 2009 Agreed Order for additional site investigation and remediation planning as prepared by the Department of Ecology (Ecology). Authorization for the design and preparation of construction documents along with an amendment to the PSA with Floyd/Snyder for environmental support will allow remediation of the site to occur in 2014.

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The redevelopment strategy prepared by the Port and the City of Burien has identified the Lora Lake Apartment Parcel as appropriate for large-scale commercial or industrial uses such as auto dealerships or air cargo logistics.

### **BACKGROUND:**

The proposed Agreed Order Amendment and PSA amendment support remediation of the Lora Lake Apartments Parcel in 2014, advancing by one year the schedule for potential redevelopment and productive reuse of the property, as described below.

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 the construction of the apartment complex in 1986-87, the developer conducted environmental investigations and remediation that were approved by Ecology under standards in place at that time.

The Port purchased the Lora Lake Apartments Parcel 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 in the portion of the property not required for Third Runway support 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 and defined the general character of the contamination. The Port negotiated with Ecology to complete the necessary remaining detailed site investigations and evaluation of cleanup options under Ecology supervision pursuant to an MTCA Agreed Order. The Commission authorized Port execution of the 2009 Agreed Order on June 9, 2009.

The primary focus of the 2009 Agreed Order was investigation of conditions and evaluation of remedial options for the property that had been the site of the Lora Lake Apartments. To address public concerns, Ecology directed the Port to also investigate conditions at other properties in which contaminants originating at the Apartments property might have “come to be located.” As a result, the Lora Lake Apartments “Site” was expanded to include three parcels: the Lora Lake Apartments Parcel (consists of the former Apartments property), the Lora Lake Parcel (includes Lora Lake and surrounding uplands), and an area historically used for disposal of sediments dredged from Lora Lake, the Dredge Material Containment Area (DMCA).

The remedial investigation of all three parcels has been completed. The feasibility study of remedial options for the Lora Lake Apartments Parcel and the DMCA has been completed. Ecology has indicated its preferred remedial actions for those parcels, which decision is subject to future public comment. The feasibility study for the Lora Lake Parcel will be completed by the end of 2012, and Ecology will select a remedy, completing an overall Site Cleanup Action Plan. The public will be given an opportunity to review and comment on a site-wide Remedial Investigation/Feasibility Study (RI/FS) report and proposed Cleanup Action Plan. Ecology will make any changes in the Cleanup Action Plan warranted by received public comment. Assuming that the Port Commission authorizes doing so, the Port would then enter into another Agreed Order (or alternatively, a Consent Decree) to implement the Cleanup Action Plan (the “Cleanup

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Order”). Based on current schedule projections, entry of the Cleanup Order would occur in the second or third quarter of 2013, resulting in Lora Lake Apartments Parcel remediation in 2015. The proposed amendment to the 2009 Agreed Order would enable Ecology to review and approve, subject to future public comment, the Port’s detailed draft Cleanup Action Plan prior to entry of the Cleanup Order. This early start to the design period would enable remediation of the Lora Lake Apartments Parcel in 2014 rather than 2015, as desired by, and to the benefit of all stakeholders (the City of Burien, Ecology, the community and the Port).

The Lora Lake Apartment Parcel is located within the City of Burien’s Northeast Redevelopment Area (NERA). The City identified NERA as an area affected by present and future aviation activities. The City and Port have partnered to prepare a redevelopment strategy for the NERA. The redevelopment strategy identified the Lora Lake Apartment Parcel as appropriate for large-scale commercial or industrial uses such as auto dealerships or air cargo logistics.

Associated with today’s request for authorization to execute the 2009 Agreed Order amendment is a request to add \$1,900,000 to the Port’s PSA with the Port’s environmental consultant. In May of 2009, the Port issued a competitive procurement for a project specific Category III PSA to retain a qualified environmental consulting firm to provide all services necessary to design and implement a contaminated soil and ground water investigation and remediation of the Lora Lake Apartments Site. 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 ... are included in the Scope of Work, but the value of those scope items and duration of Work cannot be estimated at this time.” Floyd/Snider was selected to perform the work. The original value of the executed contract was \$1,555,315, which included work that arose during negotiations for the 2009 Agreed Order that were not a part of the \$600,000 estimate. In December 2010, the contract was amended to adjust the scope of work and associated budget consistent with Ecology’s expansion of the site boundaries. This \$949,460 amendment brought the total contract value to \$2,504,775. The contract has been amended six additional times to add subcontractors and adjust billing rates; these six amendments did not increase the total contract dollar value.

The estimated value of the proposed contract amendment is \$1,900,000. 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 Floyd/Snider contract for \$1,900,000 to complete the planning, design support and, if subsequently authorized by the Commission, implementation of the Lora Lake Apartment Site remediation.

### **PROJECT JUSTIFICATION:**

The overall goal of the investigation and Site cleanup is to significantly reduce or eliminate the exposure of ecological and human receptors to soil contamination and thereby reduce or eliminate adverse effects on resources in the project site. Cleanup of the property will allow for its beneficial reuse.

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### ***Project Objectives:***

- Perform the remediation work at the Site in accordance with the 2009 Agreed Order, and any future Orders or Decrees that the Commission authorizes.
- Manage and perform the work, with project controls and contract systems in place.
- Identify and consider community values and concerns, as part of a formal Public Participation Plan.

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

#### ***Scope of Work:***

Perform design and design support at the Site. Early phases of the design effort will be carried out in a manner that considers the potential needs of future development on the Lora Lake Apartment Parcel. Prior to completing the final design, staff will brief the Commission on the status of future development. If applicable, staff will notify the Commission of project cost increases above those needed for environmental cleanup alone and will request Commission authorization to finalize the design in a manner that accommodates future development.

#### ***Schedule:***

2013 – Draft Cleanup Action Plan

2013 1<sup>st</sup> Quarter – Begin design

2013 2<sup>nd</sup> or 3<sup>rd</sup> Quarter – Commission authorization for entry of Cleanup Order between the Port and Ecology

2014 1<sup>st</sup> Quarter – Advertise construction contract

2014 2<sup>nd</sup> Quarter – Begin construction

2014 4<sup>th</sup> Quarter – Construction complete

### **FINANCIAL IMPLICATIONS:**

There is no funding request as part of this authorization since the budget for this requested action will be authorized in the annual environmental remediation liability program authorization request (also scheduled for December 4, 2012). All costs will be accounted for as environmental remediation liabilities 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 Parcel remediation program was included within the Commission's 2012 environmental remediation liability program spending authorization, approved on December 6, 2011. Additional environmental remediation liabilities will be established in compliance with Port Policy AC-9, in December 2012. The updated liability amount will be accounted for as a non-operating environmental remediation liability expense since the clean-up costs are in preparation of the expected sale of the property.

The costs are eligible for state grant funding if and when it is available.

As the project moves forward, the status will be reported annually to the Commission via routine environmental liability reports and spending authorization requests. The source of funds will

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continue to be the Airport Development Fund. The anticipated proceeds from the sale of the property are estimated to be approximately \$8.5 million. This will partially reimburse the Port for the environmental costs incurred.

### **STRATEGIC OBJECTIVES:**

This project will achieve the strategic objective of accomplishing cleanup of the Port's property, with the intent of returning it to productive use.

### **ENVIRONMENTAL SUSTAINABILITY:**

Under MTCA, Ecology reviews cleanup projects to ensure that they meet the substantive requirements of federal and state laws and regulations that are applicable or relevant and appropriate.

Project planning and design efforts are considering and incorporating opportunities for materials reuse, recycling, and/or reduction. Finally, if authorized in the future, implementation of the cleanup remedy will include significant environmental controls and performance monitoring to ensure public health and safety.

### **BUSINESS PLAN OBJECTIVES:**

Remediation of the Lora Lake Apartments Site will reduce to acceptable levels threats to the environment caused by historical property uses and operations, achieving compliance with regulatory mandates, management of Port liabilities, and support of the local community, all in alignment 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. Completion of the Site remediation, moreover, is directly responsive to the Port's commitment to cooperative Port – City of Burien property redevelopment.

### **TRIPLE BOTTOM LINE SUMMARY:**

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. Cleanup also returns contaminated land to a more productive state.

### **ALTERNATIVES CONSIDERED AND THEIR IMPLICATIONS:**

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

Alternative 1: Do not authorize execution of the proposed amendment to the 2009 Agreed Order. This alternative would delay remediation of the Site by at least one year, to the detriment of the City of Burien and the Port, and could appear to be a rejection of expressed community concern. This alternative could also result in the issuance of a unilateral Ecology enforcement order to perform the work, which would eliminate Port control over the remediation activity and could result in significant cost. This is not the recommended alternative.

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Alternative 2: Authorize execution of the proposed amendment to the 2009 Agreed Order, but do not authorize amendment of the existing Floyd/Snider PSA. Conduct the remainder of the Lora Lake Apartment Site remediation effort using Port resources, without outside consultant assistance. There are insufficient Port staff resources and specialized expertise to efficiently deliver the effort to remediate the site without consultant support. This is not the recommended alternative.

Alternative 3: Authorize execution of the proposed amendment to the 2009 Agreed Order, but conduct a separate procurement for the next phases of the work, potentially retaining a different environmental consultant to perform the remediation tasks and to provide design support to Port staff. The existing PSA specifically includes the subject scope of work and the current environmental consultant has the needed specialized expertise. The time needed to re-procure a consultant with similar expertise would delay the remediation by at least one year and result in additional cost. This is not the recommended alternative.

Alternative 4: Authorize execution of the proposed amendment to the 2009 Agreed Order and amendment of the existing Floyd/Snider PSA, consistent with its Scope of Work, to provide design support to Port staff. This alternative would result in compliance with the 2009 Agreed Order issued by Ecology and, if subsequently authorized by the Commission remediation of the site occurring in 2014. This is the most expeditious and cost effective approach. **This is the recommended alternative.**

### **OTHER DOCUMENTS ASSOCIATED WITH THIS REQUEST:**

- Amendment to MTCA Agreed Order No. DE 6703
- PowerPoint presentation.

### **PREVIOUS COMMISSION ACTIONS OR BRIEFINGS:**

- December 6, 2011, the Port Commission authorized 2012 expenditure of \$56,500,000 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.
- 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 Ecology, issued under MTCA, for environmental investigation and remediation of the Lora Lake Apartments Site.