

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

**COMMISSION AGENDA**

**Item No.** 5f

**ACTION ITEM**

**Date of Meeting** November 6, 2012

**DATE:** October 26, 2012

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

**FROM:** Ralph Graves, Managing Director, Capital Development  
Janice Zahn, Assistant Director of Engineering – Construction Services

**SUBJECT:** Bus Maintenance Facility Project Contract MC-0316730  
Change Order for time extension for the RCF Bus Maintenance Facility

**Amount of This Request:** \$0                      **Total Project Cost:** \$13,283,519.82

**Source of Funds:** No additional funds requested

**Est. State and Local Taxes:** \$1,261,934.38 of Total Project Cost    **Jobs Created:** N/A

**ACTION REQUESTED:**

Request Commission authorization for the Chief Executive Officer to issue Change Order No. 023 for the Bus Maintenance Facility project to grant a no-cost time extension of 151 calendar days to the contract completion date. Upon approval of this change order, the new contract completion date will be July 13, 2012. No additional funds are requested as this is a no-cost change order.

**SYNOPSIS:**

The Bus Maintenance Facility (BMF) project constructed a bus maintenance building, bus wash facility, a compressed natural gas (CNG) fueling station, and bus and employee parking areas to support the new consolidated rental car and existing employee parking busing operations. On March 27, 2012, the Commission authorized execution of a change order of up to 94 calendar days due to Port decision to delay hiring bus drivers for the Rental Car Facility (RCF). These drivers were needed to operate CNG buses to fully test and commission the CNG fueling station and equipment in the BMF. We informed Commission at the time that this was an estimate of the delays we were incurring, but that we did not have the complete analysis to come to a final number of days of delay. Now that the project is complete, we have been able to complete our time impact analysis and determine that the contractor is due a time extension of 151 calendar days to the contract due to multiple issues. These Port-caused issues include the bus driver

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hiring delay along with and several new issues that have arisen since the March 27, 2012, Commission meeting. Details of the items causing delay events are described below in the Background section.

During the construction of the BMF, the contractor had its own problems that also delayed the completion of the contract. The Port finds that these contractor delays occurred concurrently with the Port-caused delays. Since the delays are concurrent, the contractor cannot seek additional delay costs from the Port, and conversely the Port cannot seek liquidated damages from the contractor. This change order extends time only and no additional project costs are requested. Based on the newly completed evaluation of schedule impacts, the staff recommends that the Commission authorize approval to issue a change order extending the required contract completion date by 151 calendar days.

### **BACKGROUND:**

The BMF project includes the construction of a bus maintenance building, bus wash facility, a CNG fueling station, and bus and employee parking areas to support the new consolidated rental car facility and existing employee parking busing operations. Construction on the BMF project started in October 2010 with an original completion date of February 13, 2012. The BMF contractor submitted an original request for time extension on February 7, 2012. The Port was able to complete a partial review of the time extension request and determine that some additional time was owed to the contractor, but we could not make a final determination because of the continuing unknown solution to the delay in the hiring of the bus drivers. Staff requested and Commission approved issuing Change Order #23 to extend the contract up to 94 calendar days on March 27, 2012. The contractor submitted supplemental information to the Port on July 11, 2012, that included an as-built schedule showing the delays that had occurred on the project. The Port reviewed this information and performed its own time impact analysis (TIA) to evaluate the amount of time owed to the contractor.

The Port found several overlapping issues that extended the contract dates for achieving beneficial occupancy and substantial completion. Beneficial occupancy is when the facility is complete enough so that the Port can use the facility for its intended purpose. Substantial completion is when all field work has been completed, including punch-list work, and contract time ends. The Port was able to take full beneficial occupancy of the BMF when the CNG fueling station testing and commissioning was completed on May 11, 2012.

Three items held up the testing and commissioning of the CNG station. First, there was a delay in Puget Sound Energy turning on the natural gas pipeline to the CNG station. Puget Sound Energy was responsible for the design and installation of the natural gas piping to the site. Puget Sound Energy changed its design late in the project and then had its own concerns about the work, which delayed the activation of the gas line to the site. The delays caused by the utility company were out of the control of the contractor and the commissioning effort could not start without natural gas. Second, we incurred the delay due to the decision to delay hiring of bus drivers until closer to the new opening date of the RCF as described in the March 27, 2012,

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Commission memo. Lastly a fire in one of the CNG fueling station electrical control panels occurred shortly after the start of the commissioning effort, which stopped all commissioning until the damage was repaired and inspected. The cause of the fire was determined to be an improperly tightened breaker lug in the panel, which was a factory manufacturing defect. The contract allows the contractor additional time for fires or other casualties that are not the fault of the contractor. The Port's TIA indicates that the contractor is due a time extension to the beneficial occupancy date making the new date May 12, 2012.

The Port's TIA showed two more issues that delayed the contractor from finishing all field work on the project and achieving substantial completion. The first issue was discovered during the commissioning of the boilers in the bus maintenance building. The building was designed with two boilers. One of the boilers was working correctly so we were able to take beneficial occupancy of the building in the spring, when heating demand was low enough to be supplied by a single boiler. However, the second boiler was not working properly and it was determined to be a result of a design error in the design of the exhaust stack. The solution required the issuance of a change order to add a boiler stack draft inducer. This work was not completed until June 25, 2012. The second issue was discovered in commissioning of the bus wash equipment. The bus wash was operating correctly per specifications; however, Port maintenance had a concern that minor wash water overspray on a control panel and floor where the operator stands was creating a potentially unsafe condition for the operator. The Port elected to issue a change order to have the bus wash manufacturer supply a supplemental screen at the location to stop the water overspray from creating a potential hazard. It took until July 13, 2012, to order the screen parts and get them installed. This was the last item of work completed and the contract was substantially complete on July 13, 2012.

The BMF contractor had its own delays during the time period from the original contract completion date of February 13, 2012, to the July 13, 2012, date of substantial completion. The Port finds that these contractor delays occurred concurrently with the Port-caused delays. Since the delays are concurrent, the contractor cannot seek additional delay costs from the Port, and conversely the Port cannot seek liquidated damages from the contractor. This change order extends time only and no additional project costs are requested. Based on the newly completed review evaluation of schedule impacts, the staff recommends that the Commission authorize approval to issue this change order extending the required contract completion date by 151 calendar days. The change order will also extend the date of beneficial occupancy to May 11, 2012.

### **FINANCIAL ANALYSIS:**

This change order extends time only. 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:

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Contract award date:	October 11, 2010
Original period of performance:	October 11, 2010, to February 13, 2012
Previous contract extensions:	0 Days
<u>Current Contract Completion Date:</u>	<u>February 13, 2012</u>

<u>Contract extension this Change Order:</u>	<u>151 Days</u>
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Revised Contract Completion Date:	July 13, 2012
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Original Contract amount:	\$13,086,443.50
Previous Change Order Nos. 001 – 022 and 024 -058:	\$197,076.32
<u>Current Contract amount</u>	<u>\$13,283,519.82</u>

<u>This Request, Change Order No. 23</u>	<u>\$0.00</u>
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Revised Contract amount:	\$13,283,519.82
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### **OTHER DOCUMENTS ASSOCIATED WITH THIS REQUEST:**

None.

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

The following is a list of the previous Commission actions in support of the BMF project and does not include the dates of all of the monthly Rental Car Facility program briefings to the Commission:

- On February 27, 2007, the Commission authorized an additional \$6,460,183 for design for the RCF program. This included \$1,462,500 for the BMF project.
- On May 13, 2008, the Commission authorized an additional \$3,574,300 for design for the RCF program. This included \$1,377,330 for the BMF project.
- On June 2, 2009, the Commission authorized an additional \$607,000 for the design of the CNG Fueling Facility as part of the BMF project.
- On June 30, 2009, the Commission lifted the suspension on the RCF program and authorized an additional \$591,670 for the design of the RCF program. This included \$361,170 for the BMF project.
- On February 2, 2010, the Commission authorized the advertisement of construction bid, and an additional \$24,474,000 for the construction of the BMF project.

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- On May 18, 2010, the Commission authorized the Chief Executive Officer to execute a Developer Extension Contract, and supporting Bill of Sale, Right of Entry and Easement documents, with the Highline Water District in support of the BMF project.
- On May 3, 2011, the Commission authorized the Chief Executive Officer to amend the Arai Jackson Ellison Murakami (AJEM) Professional Service Agreement for up to \$450,000 for design support during construction of the Bus Maintenance Facility (BMF) and to provide notification to the Port of Seattle Commission in accordance with RCW 53.19.060 that the total amended amount exceeds 50% of the original contract not to exceed value of \$1,900,000.
- On January 10, 2012, the Commission conducted the First and Second Reading and passed Resolution No. 3656 declaring certain real property, the water mains and appurtenances located at: 2585 S 194th St, SeaTac, WA and 2645 S 194th St, SeaTac, WA, the water mains and appurtenances located within the public right of way on S 160th St, SeaTac, WA, and on Port property on Host Road, SeaTac, WA, to be surplus and no longer needed for Port District purposes and authorizing the Chief Executive Officer to execute all documents necessary for transfer of the title of these water mains and appurtenances to the Highline Water District.
- On March 27, 2012, the Commission approved authorization to issue a time extension of up to 94 calendar days to the contract due to delay caused by the Port's inability to provide buses for testing and commissioning and changes to the direct digital controls on the project.
- On October 9, 2012, the Commission conducted the First Reading and Public Hearing of Resolution No. 3669 declaring certain permanent access easements, and the electrical infrastructure improvements located at: 2585 S 194<sup>th</sup> St, SeaTac, WA, on Port property on S 194<sup>th</sup>/196<sup>th</sup> St, SeaTac, WA, within the public right of way on 28<sup>th</sup> Ave S, SeaTac, WA, within the public right of way on International Blvd, SeaTac, WA, and at 3150 S 160<sup>th</sup> St, SeaTac, WA to be surplus and no longer needed for port district purposes and authorizing the Chief Executive Officer to execute all documents necessary for conveyance of the permanent access easements on the real property and title to these electrical infrastructure improvements to the City of Seattle and Puget Sound Energy.
- On October 23, 2012, the Commission conducted the Second Reading and passed Resolution No. 3669 declaring certain permanent access easements, and the electrical infrastructure improvements located at: 2585 S 194<sup>th</sup> St, SeaTac, WA, on Port property on S 194<sup>th</sup>/196<sup>th</sup> St, SeaTac, WA, within the public right of way on 28<sup>th</sup> Ave S, SeaTac, WA, within the public right of way on International Blvd, SeaTac, WA, and at 3150 S 160<sup>th</sup> St, SeaTac, WA to be surplus and no longer needed for port district purposes and authorizing the Chief Executive Officer to execute all documents necessary for conveyance of the permanent access easements on the real property and title to these electrical infrastructure improvements to the City of Seattle and Puget Sound Energy.