

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

**COMMISSION AGENDA**  
**ACTION ITEM**

**Item No.** 4d  
**Date of Meeting** November 10, 2015

**DATE:** October 22, 2015  
**TO:** Ted Fick, Chief Executive Officer  
**FROM:** Ralph Graves, Senior Director, Capital Development  
Janice Zahn, Assistant Director of Engineering, Construction Services  
**SUBJECT:** Change Order No. 009 for the Terminal 46 Stormwater Improvements Project,  
MC-031777 - Terminal 46 (T-46) Development Program CIP #C102554

<b>Amount of This Request:</b>	\$0	<b>Source of</b>	General Fund
<b>Est. Total Project Cost:</b>	\$20,000,000 to \$35,000,000	<b>Funds:</b>	
	(Current Program Authorization \$12,500,000)		

**ACTION REQUESTED**

Request Commission authorization for the Chief Executive Officer to issue Change Order 09 for the Terminal 46 Stormwater Improvements project, contract MC-0317777, to add \$172,381.19 and 73 calendar days to the contract, resulting in a revised contract amount of \$2,381,124.79 and duration of 340 days. No additional funds are requested.

**SYNOPSIS**

On February 4, 2014, the Port Commission approved authorization to purchase materials, advertise for construction bids, execute construction contracts, and fund the construction phase of the stormwater improvements portion of the Terminal 46 Development Program. On April 28, 2014, a major construction contract with Icon Materials was executed for the T-46 Stormwater Improvements project, MC-0317777.

On January 6, 2015, Change Order 04 was issued as a discretionary change for a not-to-exceed amount of \$250,000.00 to repair/replace a failed storm drainage outfall pipe. Schedule delay impacts were not included since the site conditions and productivity could not be accurately determined prior to the start of this changed work.

As part of reconciling this now completed work, we request authorization to issue Change Order 09 to extend the contract duration by 73 calendar days for the schedule delay impacts. Change Order 09 also increases the contract amount by \$172,381.19 to account for additional validated

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work required for the repair work. Current program authorization has sufficient funds required to support this additional cost.

### **BACKGROUND**

Total Terminals, Inc. (TTI) is the current tenant at T-46. The 13th Amendment to the TTI lease for T-46 committed the Port to certain capital improvements to the terminal. The Commission previously authorized permitting, design, and project management funding for T-46 lease improvements for an estimated cost of \$6,000,000 as part of the estimated \$20,000,000 to \$35,000,000 lease amendment commitments at T-46. In order to comply with the Washington Department of Ecology industrial stormwater permit, installation of a storm water treatment system became a priority. On April 28, 2014, a major construction contract was executed with Icon Materials for the T-46 Stormwater Improvements project, which entailed the installation of three of the four necessary stormwater treatment systems for Terminal 46.

During the installation of these stormwater treatment systems, it was determined that a section of the stormwater outfall pipe to Elliott Bay should be repaired/replaced. In order to minimize the total cost of this repair work, minimize the impact to the tenant, and to ensure that the new water quality treatment system performed as intended, the Port proceeded with a change order for this additional repair work.

Change Order 04 was issued for an amount not to exceed \$250,000.00, and the number of added days would be determined upon completion of the work. The cost included both lump sum negotiated components (mobilization, dewatering, pumping) and work that is tracked daily by the Port and signed off on force account sheets. The final actual cost and time impacts would be determined as part of the final reconciliation of Change Order 04.

Upon commencement of the subsurface repair work, the contractor's production rates decreased as excavation work became very difficult due to interference with existing utilities that resulted in difficult working conditions. Due to the difficult working conditions, the final actual cost of the repair work and the duration/time increased from the original estimated amounts.

At the completion of this change order work, the contractor submitted their actual costs totaling \$520,069.22, of which the Port has validated a total undisputed amount of \$422,381.19. This results in a reconciliation amount, under Change Order 09, for an additional \$172,381.19. The Port evaluated the change order work duration and determined that the contractor is entitled to 73 additional calendar days. Change Order 09 does not include Icon's disputed costs of \$97,688.03 or any days related to the corrective work caused by Icon's equipment failure. The Port does not pay for contractor-caused defective or corrective work and will address these disputes as part of the Port's dispute resolution process.

### **CHANGE ORDER NO. 09 DESCRIPTION**

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

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### **Scope of Work**

This Change Order extends the contract duration by 73 calendar days and increase the contract amount by \$172,381.19 as required to reconcile previously issued discretionary Change Order 04 for an outfall repair at Terminal 46.

### **Justification**

Additional time is being granted after an analysis of the project critical path for the Port caused delay impacts.

Additional cost is required to compensate the contractor for the actual cost of performing the work, due to the unanticipated complexity of work encountered upon commencement of subsurface work.

### **CONTRACT INFORMATION**

The following information relates to the contract and competitive award:

Contract execution date:	April 28, 2014
Original period of performance:	April 28, 2014 – January 20, 2015
Previous contract extensions:	0
Current Contract Completion Date:	January 20, 2015
Contract extension this change order:	73 Days
Revised Contractor Completion Date:	April 3, 2015

### **FINANCIAL INFORMATION**

Original contract amount:	\$1,949,480.00
Previous Change Orders Executed:	\$259,263.60
Current contract amount	\$2,208,743.60
This request, Change Order No. 09	\$172,381.19
Subtotal Construction Costs	\$2,381,124.79
Anticipated sales tax @ 9.6%	\$228,587.98
Revised Contract Amount	\$2,609,712.77

### **ATTACHMENTS TO THIS REQUEST**

- None

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

- May 12, 2015 - Commission approved authorization for the Chief Executive Officer to execute an amendment to agreement (P-00317562) with KPFF Consulting Engineers for professional design services on the Terminal 46 Lease Improvements Project to increase the agreement by \$2,000,000 to a total amount not to exceed \$4,000,000. No funding is requested to amend this agreement as funds have been previously authorized in the Terminal 46 Lease Amendment program budget.

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- February 4, 2014 - Commission approved authorization for the Chief Executive Officer to direct staff to purchase materials, advertise for construction bids, execute construction contracts, and fund the construction phase of the stormwater improvements portion of the Terminal 46 Development Program in the amount of \$6,500,000, bringing the total amount currently authorized for the program to \$12,500,000.
- April 9, 2013 – Commission approved permitting, design, and project management funding for improvements committed as part of the lease amendment at Terminal 46.
- December 11, 2012 – Commission approved execution of the 13th Amendment to the lease for Terminal 46 with Total Terminals, Inc.