



**COMMISSION
AGENDA MEMORANDUM
ACTION ITEM**

Item No. 6f
Date of Meeting May 12, 2020

DATE: April 30, 2020

TO: Stephen P. Metruck, Executive Director

FROM: Jon Sloan, Sr. Manager, Environmental Programs

SUBJECT: Terminal 117 Habitat Restoration and Duwamish Shoreline Access Project –
Agreements with Muckleshoot Indian Tribe and Suquamish Tribe

Amount of this request: \$0
Total estimated project cost: \$25,921,000, with \$307,500 going to each tribe

ACTION REQUESTED

Request Commission authorization to transmit funds that are necessary to fulfill agreements with the Muckleshoot Indian Tribe and Suquamish Tribe for construction of the Terminal 117 Habitat Restoration and Duwamish Shoreline Access Project. These funds are included in the previously authorized funding for the project.

PROJECT INFORMATION

Execution of the construction contract for the Terminal 117 Habitat Restoration and Duwamish Shoreline Access Project was authorized by Commission on April 28, 2020. As a necessary component of securing federal permits for the project, agreements were negotiated with the Muckleshoot Indian Tribe and Suquamish Tribe that require minor design modifications, installation of interpretive signage, special landscaping requirements, and a contribution of \$307,500 to each tribe’s fisheries mitigation fund. The agreements insure that the temporary loss of access to treaty-reserved fishing areas at the project area during construction are offset. Tribal consultation is undertaken for all in-water construction projects at the Port. These are standard agreements for Port projects and aligned with past practice involving significant in-water work.

JUSTIFICATION

The Terminal 117 Habitat Restoration and Duwamish Shoreline Access Project, over ten years in the making, supports the Port’s triple-bottom line sustainability objectives: it achieves significant social, environmental, and financial goals. Construction of the project was authorized by Commission on April 28. As a component of federal permitting actions, tribal agreements were negotiated to offset temporary loss of treaty-reserved fishing area. These agreements, originally negotiated in 2018, now require a one-time contribution of \$307,500 to

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the Muckleshoot Indian Tribe’s and Suquamish Tribe’s fisheries mitigation funds prior to start of construction. The pre-construction, non-monetary components of the agreements have already been fulfilled and the two tribes have removed their objections to the project permits. The agreements require Commission authorization to transmit the required funds in order for construction to proceed. The cost of these agreements are included as part of design and permitting costs in the Cost Breakdown for the full T117 project (approved on 4/28/20).

<i>Cost Breakdown for T117 project</i>	This Request	Total Project
Design	\$0	\$3,496,000
Construction and operation ¹	\$0	\$22,425,000
Total	\$0	\$25,921,000

ATTACHMENTS

1. Letter of Agreement between the Suquamish Tribe and Port of Seattle: Terminal 117 Habitat and Public Shoreline Access Project in the Duwamish Waterway
2. Letter of Agreement between the Muckleshoot Indian Tribe and Port of Seattle: Terminal 117 Habitat and Public Shoreline Access Project in the Duwamish Waterway

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS

- July 25, 2006 – the Commission received public testimony regarding future uses for Terminal 117
- May 13, 2008 – the Commission approved entering into a memorandum of agreement (MOA) with the Trustees for crediting habitat restoration projects in and near the Lower Duwamish Waterway relating to future settlement of NRD claims; for execution of a professional services agreement for environmental review and application of permit authorizations; and to prepare plans and specifications for design and permitting of a fish and wildlife habitat restoration project at Terminal 117 under the MOA, for a total authorized expenditure of \$210,000
- October 27, 2008 – the Commission approved entering into a settlement agreement regarding the Terminal 117 Site and Lower Duwamish Site cleanup costs and NRD liability
- July 7, 2009 – the Commission adopted the Lower Duwamish River Habitat Restoration Plan, an inventory of Port of Seattle properties eligible for habitat restoration
- June 7, 2011 – the Commission approved 1) permitting and design of an expanded fish and wildlife habitat restoration project at Terminal 117 for an estimated cost of approximately \$3,021,000; and 2) execution of a contract for outside professional services to complete the permitting and design of the habitat restoration project at Terminal 117

¹ Includes consideration of administrative costs, construction, design contingency, adaptive management, site maintenance, performance monitoring, and initial maintenance.

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March 26, 2013 – the Commission approved (1) purchase of the southern portion of the South Park Marina float structure to accommodate habitat restoration at Terminal 117 and (2) completing permitting and design for a public access viewpoint pier at Terminal 117

July 23, 2019 – the Commission authorized advertising and executing a contract with a General Contractor/Construction Manager (GC/CM) “Heavy Civil,” to assist with completion of design and permitting work associated with the Terminal 117 Habitat Restoration and Duwamish Shoreline Access Project (the “Project”)

Add the recent authorization