



**COMMISSION
AGENDA MEMORANDUM**

Item No. 6g

ACTION ITEM

Date of Meeting August 11, 2020

DATE: June 2, 2020

TO: Stephen P. Metruck, Executive Director

FROM: Elizabeth Leavitt, Senior Director, Environment and Sustainability
Arlyn Purcell, Director, Aviation Environment and Sustainability

SUBJECT: Miller Creek Culvert Replacement, Fish Passage and Stream Restoration (CIP # C801156)

Amount of this request: \$800,000

ACTION REQUESTED

Request Commission authorization for the Executive Director to execute an Interlocal Agreement (ILA) with the City of Burien (City) specifying the Port will contribute \$800,000 toward the City's project to divert Miller Creek and municipal stormwater from a culvert underneath a private storage facility, abandon a failing stream culvert under Des Moines Memorial Boulevard, and construct fish-passable culverts along 450 linear feet of newly restored stream habitat on Port property.

This project will redress existing and anticipated future impacts to Port mitigation sites as well as improve municipal road and stormwater infrastructure. Construction costs for the project total \$3.5 million. The City experienced a funding shortfall and requested the Port contribute \$0.8M toward construction. The Port's contribution is a cost-effective investment to protect its mitigation area from any impacts of future culvert failures.

EXECUTIVE SUMMARY

The City plans to divert Miller Creek and municipal stormwater from a culvert underneath a private storage facility, abandon a failing stream culvert under Des Moines Memorial Boulevard, and construct fish-passable culverts along 450 linear feet of newly restored stream habitat on Port property. The project will protect existing Port mitigation sites and ensure continued compliance with authorizing Clean Water Act permits. While the purpose for the action is to minimize the Port's compliance costs, the project as a whole will also result in significant ecological benefits.

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At the November 19, 2019, public meeting, the Commission adopted Motion 2019-14 directing staff to negotiate a new ILA to contribute funds to ensure the Project is constructed. The ILA (1) authorizes the Port's funding contribution, (2) sets out a division of labor for post-construction tasks, and (3) protects the Port's interests and liability for the proposed project. Under the ILA, the Port would contribute the amount of \$800,000 toward the \$3.5M project cost and the City would carry out the work and coordinate with all necessary stakeholders.

JUSTIFICATION

This project will redress existing and anticipated future impacts to Port mitigation sites as well as improve municipal road and stormwater infrastructure. Construction costs for the project total \$3.5 million. The City experienced a funding shortfall and requested the Port contribute \$0.8M toward construction. The Port's contribution is a cost-effective investment to protect its mitigation area from any impacts of future culvert failures.

Immediately upstream of the mitigation site are two culverts: one that drains approximately 1,500 acres of stream and stormwater flow under Des Moines Memorial Boulevard, and another culvert privately-owned by the Des Moines Way Storage Facility, which conveys stormwater flow from the City's culvert plus stormwater from the 3.5 acres of storage facility property into Miller Creek within the boundaries of the Port's mitigation site.

The project scope includes replacing the culvert under Des Moines Memorial Boulevard that is at risk of failure and poses a danger to public safety. The City has proposed to address both culverts by restoring a natural stream channel ("the Miller Creek Project") for the stream and stormwater flow through the City's culvert under Des Moines Memorial Boulevard.

The failing culvert under the privately-owned Des Moines Way Storage Facility discharges directly into a stream and wetland mitigation site northwest of Sea-Tac International Airport (Airport) that the Port is required to maintain as a condition of the Airport's Third Runway permits (Clean Water Action Section 401/404 Permit #1996-04-02325 (Amended-2)). The culvert failed in 2017, discharging a large quantity of sediment to the Port mitigation site that impaired its function. The existing culvert is likely to fail again in the future and risk permit noncompliance unless a permanent fix is undertaken. The storage facility culvert will remain in place, but we have confirmed with an engineer that the project will eliminate 97% of the water currently flowing through the storage facility culvert from the Des Moines Memorial Boulevard culvert. This will prevent future failures of the storage facility culvert and eliminate the possibility of similar discharges to the Port's mitigation site.

Contributing the requested funds is the most cost-effective way to ensure the Port's mitigation sites are protected and address the City's infrastructure needs.

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DETAILS

Planning, design, and environmental review for the Project were authorized and have been completed pursuant to existing Port-Burien ILAs related to Northeast Redevelopment Area (NERA) planning and development. Commission authorized an ILA in 2013, enabling a master drainage plan and shared use path components, of which are located on Port property inside the Project footprint.

This project will take place on city right-of-way and Port property containing mitigation covenant areas, a common use trail, and vacant land. The property also contains stormwater infrastructure for the NERA, a 160-acre area jointly planned by the Port and the City for redevelopment with airport dependent land use. The 2018 ILA approved by the Commission, authorized the City to construct the stream restoration to the west of Des Moines Memorial Boulevard. This ILA is necessary to convey the remaining easements required for construction on the east of Des Moines Memorial Boulevard. Therefore, the project is construction-ready, and the City plans to construct the project between July and October 2021. At the November 19, 2019, public meeting, Commission adopted Motion 2019-14 directing staff to negotiate a new ILA to contribute funds to ensure the Project is constructed.

While the purpose for the action is to minimize the Port's compliance costs, the project as a whole will also result in significant ecological benefits. The project is a key component of the overall restoration of the Miller Creek watershed and thus includes significant community and environmental benefits. It removes the largest fish barrier on the creek and links the City's NERA stream, wetland and riparian restoration projects located directly upstream with the Port's two miles of stream mitigation, including in the project area. The Port has already removed two fish passage barriers (2012) and plans to remove another passage barrier in the north Runway Safety Area in 2022. WSDOT is also removing a fish barrier downstream of Port mitigation under Des Moines Memorial Boulevard. These actions provide a comprehensive approach to watershed management and create a contiguous stream and riparian corridor with passable road crossings.

Schedule

The City plans to complete all construction in spring and summer (approximately April – October, 2021).

ALTERNATIVES AND IMPLICATIONS CONSIDERED

Alternative 1 – Port repairs the culvert under the storage facility as a stand-alone project.

Cost Implications: \$839,000 construction cost plus legal, planning, permitting, design, and project management costs.

Pros:

- (1) Protects Port mitigation sites from future impacts that could either require the Port to restore the site and/or trigger an enforcement action by the Army Corps of Engineers.

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- (2) Maintains good-faith standing with permitting agencies, including its ability to negotiate favorable terms and conditions for future permits.

Cons:

- (1) Estimated construction costs alone equal \$839,000. However, if the Port were required to repair the failing culvert under the storage facility in the event of another failure, the need for a new planning, design and permitting process as well as associated negotiations for access would likely result in a higher cost.
- (2) No party has been willing to claim ownership of the failing culvert under the storage facility. Accessing the storage facility property to repair the culvert would require extensive legal negotiations and impact the private business's operation, which would also significantly increase costs.
- (3) The Port has coordinated planning, design, permitting and funding with the City of Burien. Failing to follow-through when the project is ready for construction does not demonstrate good faith and partnership with Burien.
- (4) Does not implement Commission Motion 2019-14 directing staff to negotiate an ILA with Burien to fund the stream restoration project.

This is not the recommended alternative.

Alternative 2 – Port does not contribute funding to the Burien project, in which case the City will limit its project scope to repairing the existing culvert under Des Moines Memorial Boulevard.

Cost Implications: Zero short-term costs, but long-term costs would equal \$839,000 construction cost plus legal, planning, permitting, design, and project management costs

Pros:

- (1) Reduces short-term costs to zero.

Cons:

- (1) A future release from the failing culvert under the Des Moines Storage Facility into the Port's mitigation site could put the mitigation site out of compliance with Clean Water Act permit conditions and prompt an enforcement action by the Corps. Such an action would require the Port to address impacts from the failing culvert in the same manner as Alternative 1. In addition to any immediate mitigation measures to address damage to the wetland from a failure, the regulatory agencies would require the Port to undertake a long-term solution which would result in the same project and costs summarized in Alternative 1. Thus, this alternative will be more expensive than both Alternative 1 and the Port's proposed \$839,000 contribution (Alternative 3, below).
- (2) The Port has completed negotiations with regulatory agencies administering the existing mitigation permits as well as the new Clean Water Act permit authorizing the Project. Failing to follow-through when the project is ready for construction would reduce the Port's standing with permitting agencies, including potentially its ability to negotiate favorable terms and conditions for future permits.

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- (3) The Port has coordinated planning, design, permitting and funding with the City of Burien. Failing to follow through when the project is ready for construction does not demonstrate good faith and partnership with Burien.
- (4) Does not implement Commission Motion 2019-14 directing staff to negotiate an ILA with Burien to fund the restoration project.

This is not the recommended alternative.

Alternative 3 – Contribute funding to the City’s project to divert Miller Creek and municipal stormwater from a culvert underneath a private storage facility, abandon a failing stream culvert under Des Moines Memorial Boulevard, and construct fish-passable culverts along 450 linear feet of newly restored stream habitat on Port property. The project is a cost-effective way to protect the Port’s mitigation site.

Cost Implications: \$800,000

Pros:

- (1) Protects Port mitigation sites from future impacts that could either require the Port to restore the site and/or trigger an enforcement action by the Army Corps of Engineers.
- (2) Least expensive option.
- (3) Realizes cost efficiencies from a single, joint planning and design effort with Burien.
- (4) Builds on a partnership with the Airport’s local government partners.
- (5) Maintains good-faith standing with permitting agencies, potentially improving its ability to negotiate favorable terms and conditions for future permits.
- (6) Implements Commission Motion 2019-14 directing staff to negotiate an ILA with Burien to fund the restoration project.

Cons:

- (1) Use of operating funds that could be applied elsewhere.

This is the recommended alternative.

FINANCIAL IMPLICATIONS

Cost Estimate/Authorization Summary

	Capital	Expense	Total
COST ESTIMATE			
Estimated total project cost	\$3,500,000	\$0	\$3,500,000
City of Burien share of costs	\$2,700,000		\$2,700,000
Port share of costs	\$800,000	\$0	\$800,000
AUTHORIZATION			
Previous authorizations	\$0	\$0	\$0
Current request for authorization	\$800,000	\$0	\$800,000
Total authorizations, including this request	\$800,000	\$0	\$800,000
Remaining amount to be authorized	\$0	\$0	\$0

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Annual Budget Status and Source of Funds

This project, CIP C801156, was not included in the 2020-2024 capital budget and plan of finance. A budget of \$800,000.00 was transferred from the Aeronautical Reserve CIP (C800753) resulting in zero net change to the Aviation capital budget. The funding source will be the Airport Development Fund (ADF).

Financial Analysis and Summary

Project cost for analysis	\$800,000
Business Unit (BU)	Airfield Movement Area
Effect on business performance (NOI after depreciation)	NOI after depreciation will increase due to inclusion of capital (and operating) costs in airline rate base.
IRR/NPV (if relevant)	N/A
CPE Impact	Less than \$.01 in 2021

Future Revenues and Expenses (Total cost of ownership)

The Port will incur costs for performance monitoring inside existing mitigation covenant areas and routine maintenance over the long-term.

ATTACHMENTS TO THIS REQUEST

- (1) Project concept
- (2) Presentation slides
- (3) Draft Port-City of Burien Interlocal Agreement

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS

- November 11, 2019 – The Commission passed a Motion to advance Miller Creek Restoration and Noise Monitor Purchase and Installation
- May 8, 2018 – The Commission authorized an Interlocal Agreement (“ILA”) between the Port of Seattle and the City of Burien for the on-going redevelopment of the Northeast Development Area (“NERA”) properties.