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COMMISSION

AGENDA MEMORANDUM Item No. 8h

ACTION ITEM Date of Meeting May 28, 2024

DATE : May 20, 2024

TO: Stephen P. Metruck, Executive Director

FROM: Eileen Francisco, Director, Aviation Project Management

Loren Armstrong, Senior Port Counsel

Pete Ramels, General Counsel

SUBJECT: International Arrivals Facility Budget Request (CIP #s C800583, C800781, C800836)
and Authorization to Execute a Settlement Agreement.

Amount of this request: \$14,000,000

Total estimated project cost: \$1,010,645,000

ACTION REQUESTED

Request Commission authorization for the Executive Director to increase funding and execute all necessary activities for the International Arrivals Facility project, at Seattle-Tacoma International Airport, by \$14,000,000, for a new total of \$1,010,645,000, and to execute a settlement agreement to partially resolve the pending litigation.

EXECUTIVE SUMMARY

Construction of the International Arrivals Facility at Seattle-Tacoma International Airport is almost complete, and the facility has been in use since May 2022. Additional budget in the amount of \$14,000,000 is now required to resolve all of the Design-Builder's claims in the pending litigation and close out the project.

The action will approve and fund a partial settlement in the IAF litigation. The settlement resolves all of the Design-Builder's claims against the Port arising out of the IAF project, and it resolves most, but not all, of the Port's counterclaims against the Design-Builder. The Port's claims against the Design-Builder that are not resolved by the settlement agreement and that are still pending in the ongoing litigation include the Port's counterclaims for significant damages against the Design-Builder related to the Design-Builder's failure to design and build the IAF to simultaneously accommodate 20 widebody aircraft.

Pursuant to the settlement agreement, the Port will pay the Design-Builder an additional \$13,791,461.13 (the "Settlement Funds"). Because the Port believes that any additional amounts owed by the Port are owed to subcontractors because of COVID-19 pandemic impacts to their

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work on the Project, the settlement agreement requires that 100% of the Settlement Funds be distributed to the Design-Builder's subcontractors (after payment of applicable sales tax due on the Settlement Funds and the payment of the subcontractors' pro-rata portion of the Design Builder's fees and costs incurred to recover the Settlement Funds on behalf of the subcontractors).

Commission was briefed on the settlement agreement in executive session.

There are no attachments to this memo.

Template revised June 27, 2019 (Diversity in Contracting).