

Item No.: 3C-supp
Date of Meeting: November 13, 2018



**THE NORTHWEST
SEAPORT ALLIANCE**
Gateway to Solutions

Increase Legal Contract – West Sitcum Terminal

Presenter: Deanna Seaman
Title: Environmental Senior Project Manager

Action Requested

As referenced in NWSA Resolution No. 2016-04, Exhibit A, Delegation of Authority Master Policy, Paragraph 8.c.iii., states contract costs exceeding \$300,000 require approval from Managing Members.

Request Managing Members of the Northwest Seaport Alliance (NWSA) authorization for the Chief Executive Officer or their delegate to authorize \$261,105, for a total authorized amount of \$612,2300, for the Legal Contract with Tupper Mack Wells for the Soundkeeper / APMT / POT / SSATT Clean Water Act Lawsuit, Master Identification No. 201046.01.



Background

- January 2, 2017 – Soundkeeper Filed Suit against APMT in Federal Court
- October 2, 2017 – POT became the NPDES Permit Holder at the West Sicum Terminal
 - October 23, 2017, POT signed an agreed order with Ecology
 - Install interim BMPs immediately
 - Install treatment by 9/30/18
- November 29, 2017 – Soundkeeper added POT to the lawsuit with APMT
- Motion to add SSAT to the lawsuit is pending before the court



Contract Request

- The requested increase includes:
 - Consultant and legal services through discovery and trial phases as well as potential settlement discussions



Contract Schedule

Action	Date
Disclosure of expert testimony	11/5/2018
Disclosure of rebuttal expert testimony	12/5/2018
Filing deadline for motions related to discovery	12/17/2018
Deadline for discovery	1/14/2019
Deadline for dispositive motions	2/13/2019
Deadline for motions in limine	4/8/2019
Pretrial order filing	4/22/2019
Trial briefs, proposed findings and conclusions, and deposition designations	4/23/2019
Pretrial conference	4/29/2019
Ten Day Bench Trial	5/14/2019



Financial Summary

<u>Date</u>	<u>Action</u>	<u>Amount</u>
December 19, 2017	Executive Authorization	\$80,000
March 30, 2018	Executive Authorization	\$60,230
June 1, 2018	Executive Authorization	\$40,000
June 27, 2018	Executive Authorization	\$150,000
November 13, 2018	Request Commission Authorization	\$261,105
Consultant Budget	On-call task order	\$20,895
Contract Subtotal		\$612,230
Estimated Staff Time		\$90,000
TOTAL		\$702,230



Alternatives Considered and Implications

- No Action Alternative: There are no proposed settlement terms at this point.
- Recommended action: Move forward with litigation related activities per the schedule in the previous slide.



Environmental Impacts/Review

- Permitting: No Impacts
- Remediation: No Impacts
- Water Quality: This lawsuit could potentially impact how the Port will manage and respond to stormwater permits and the Clean Water Act
- Air Quality: No impacts



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