

**THE NORTHWEST SEAPORT ALLIANCE**  
**MEMORANDUM**

**MANAGING MEMBERS**  
**ACTION ITEM**

<b>Item No.</b>	<u>4F</u>
<b>Date of Meeting</b>	<u>May 7, 2019</u>

**DATE:** April 24, 2019

**TO:** Managing Members

**FROM:** John Wolfe, CEO  
**Sponsor:** Jason Jordan, Director, Environmental and Planning Services  
**Project Manager:** Elizabeth Black, Senior Port Counsel, Port of Seattle

**SUBJECT:** Stoel Rives contract for litigation support in the Soundkeeper / TTI Clean Water Act Lawsuit

**A. ACTION REQUESTED**

*As referenced in NWSA Resolution No. 2018-01, Exhibit A, Delegation of Authority Master Policy, Paragraph 8.c.iii., states project costs exceeding \$300,000 require approval from Managing Members.*

Request legal authorization in the amount \$300,000 for a total authorized amount of \$600,000, for work associated with the Soundkeeper / TTI Clean Water Act lawsuit.

**B. SYNOPSIS**

This request is to enable NWSA to extend the Port of Seattle contract with Stoel Rives through potential settlement discussions and the next phase of litigation.

**C. BACKGROUND**

Soundkeeper sued NWSA's tenant TTI on April 12, 2018. Soundkeeper added the Port of Seattle to the lawsuit on October 31, 2018. The court denied the Port's motion to dismiss on March 4, 2019. NWSA Managing Members approved an agreement to terminate TTI's lease on March 29, 2019.

**D. PROJECT DESCRIPTION AND DETAILS**

The scope of work includes consultant and legal services in preparation for ongoing litigation as well as potential settlement discussions.

**E. FINANCIAL IMPLICATIONS**

***Project Cost Details***

	<b>This Request</b>	<b>Total Project Cost</b>	<b>Cost to Date</b>	<b>Remaining Cost</b>
Legal/Consulting/Staff	\$ 300,000	\$ 600,000	\$ 289,258	\$ 310,742
<b>Total</b>	<b>\$ 300,000</b>	<b>\$ 600,000</b>	<b>\$ 289,258</b>	<b>\$ 310,742</b>

***Source of Funds***

The 2019 budget did not include funds for this lawsuit. This cost will be funded through NWSA net income.

***Financial Impact***

An expense of \$400,000 was recognized in March 2019 for this expense. Through March 2019, the NWSA net income is \$2.5 million higher than budgeted. This expense is included in the March year to date results.

**F. ALTERNATIVES CONSIDERED AND THEIR IMPLICATIONS**

Alternative 1) Do Nothing.

Alternative 2) Proceed with the current course of action and evaluate options for settlement.

**Alternative 2 is the recommended course.**

**G. ENVIRONMENTAL IMPACTS/REVIEW**

Permitting:

There are no permitting implications right now. The outcome of the lawsuit has the potential to change how we permit terminals and other facilities.

Remediation:

There are no remediation impacts.

Stormwater:

This lawsuit impacts how the Port will manage and respond to stormwater permits and the Clean Water Act.

Air Quality:

There are no identified impacts to air quality.

**H. ATTACHMENTS TO THIS REQUEST**

- Computer slide presentation.

**I. PREVIOUS ACTIONS OR BRIEFINGS**

<b><u>Date</u></b>	<b><u>Action</u></b>	<b><u>Amount</u></b>
August 2018	Executive Authorization	\$300,000
May 7, 2019	<i>Request Commission Authorization</i>	\$300,000
<b>TOTAL</b>		<b>\$600,000</b>

**J. NEXT STEPS**

Continue litigation and settlement negotiations as necessary.