



Item No.: 4F_supp
Date of Meeting: May 7, 2019

Increase Legal Contract – Terminal 46 Project

Presenter: Elizabeth Black

Title: Senior Port Counsel, Port of Seattle

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 Managing Members of the Northwest Seaport Alliance (NWSA) authorization for the Chief Executive Officer or their delegate to authorize \$300,000, for a total authorized amount of \$600,000 for the Legal Contract with Stoel Rives for the Soundkeeper / TTI Clean Water Act Lawsuit.



Background

- April 12, 2018 – Soundkeeper filed suit against TTI.
- October 31, 2018 – Soundkeeper amended its complaint to add the Port of Seattle.
- November 15, 2018 – The Port filed its motion to dismiss for lack of jurisdiction.
- March 4, 2019 – The court denied the Port's motion to dismiss.
- March 29, 2019 – Managing Members approved the lease termination agreement between TTI and NWSA.



Project Request

- The requested increase includes:
 - Consultant and legal services in preparation for ongoing litigation as well as potential settlement discussions



Financial Summary

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



Alternatives Considered and Implications

- No Action Alternative: Litigation is ongoing and requires legal support. This is not the recommended action.
- Recommended action: Move forward with settlement negotiations and continue litigation process in the event settlement is not reached.



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.



Financial Impact

- The 2019 budget did not include funds for this lawsuit. This cost will be will be funded through the NWSA net income.
- An expense of \$400,000 for this lawsuit was included in the March 2019 NWSA expenses.
- Through March 2019, the NWSA net Income is \$2.5 million higher than the 2019 budget. This expense is included in the March year-to-date results.



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