

# COMMISSION AGENDA

Item No: 4C

Meeting: 11/29/18

**DATE:** November 14, 2018

**TO:** Port Commission

**FROM:** John Wolfe, Chief Executive Officer

Sponsor: Jason Jordan, Director, Environmental and Planning Services

Project Managers: Sarah Weeks, Environmental Project Manager I, and  
Stanley Ryter, Engineering Project Manager II

**SUBJECT:** Project Authorization for work associated with the Earley Business Center Cleanup  
Action and Consent Decree Approval

## A. ACTIONS REQUESTED

As referenced in Resolution No. 2017-01-PT, Exhibit A, Delegation of Authority Master Policy, Paragraph IV.B.ii., states project costs exceeding \$300,000 require approval from Port Commission.

Request the following authorizations to advance the Earley Business Center legacy contamination cleanup:

- 1) Request authorization to sign the Earley Business Center (EBC) Consent Decree with the Washington Department of Ecology (Ecology), which obligates the Port of Tacoma to implement the Cleanup Action Plan.
- 2) Request additional project authorization in the amount \$230,000 for work associated with the Parcel 1B (EBC) Cost Recovery, Master Identification No. 101287.02.
- 3) Request additional project authorization in the amount of \$595,000 for work associated with the design of the Parcel 1B (EBC) Remediation Design and Construction Project, Master Identification No. 101287.01.

Project authorization in the amount of \$1,438,000 was previously approved by Commission for work associated with Parcel 1B (EBC) investigation and cleanup planning, Master Identification No. 095208. If authorized, the above requests bring the total project authorization to \$2,263,000.

## B. SYNOPSIS

In January 17, 2013, Commission authorized the Port to enter an Agreed Order (DE 9553) with Ecology for investigation and cleanup planning at the Earley Business Center (EBC; Parcel 1B). In April 2017, the Agreed Order commitments were completed. Since that time the Port and Ecology have been in negotiations for the Consent Decree that will set the terms and requirements of the cleanup action. The draft Consent Decree is now complete and Port

staff are requesting Commission authorization to join the Consent Decree and approval of additional project funds to begin cost recovery and construction design.

### **C. BACKGROUND**

The property was historically operated as World War I and World War II era shipyards. After World War II, the property was used for ship repair, dismantling, and salvage. These operations resulted in impacts to soil and groundwater at the site. In 1960, the Port of Tacoma purchased the property from the Navy. Ecology issued a Potential Liable Party (PLP) status letter to the Port in 2012. The following year Commission authorized the Port to enter an Agreed Order (DE 9553) with Ecology for investigation and cleanup planning. The Agreed Order committed the Port to completing a remedial investigation, an interim action (an underground storage tank removal), a feasibility study for selection of the cleanup action, and draft a cleanup action plan. These commitments were completed in April 2017. The planned cleanup action includes underground storage tank removal, groundwater monitoring, maintaining existing caps, stabilizing section of the Blair Shoreline and excavation of a shallow black stained layer at Pier 23. The request for authorization is three-fold; 1) approve signing of the Consent Decree that will set the terms and requirements of the cleanup action; 2) approve additional project budget for preliminary cost recovery efforts; 3) approve additional project budget for design.

Upon Commission approval, the next steps will be to begin cost recovery and construction design. The Port will be pursuing cost recovery from the Navy, Zidell Dismantling Company, and Todd Shipyards. The current authorization request is for Phase 1, mediation and settlement. Claim summaries will be generated for each of the 3 defendants and the parties will go to non-binding mediation to attempt settlement of claims. If mediation fails Port staff will return to Commission to request funding to complete Phase 2, litigation.

The design scope for the construction project includes preparing the 30/60/90/100 Port of Tacoma bid documents, the JARPA permit application documents, and the Ecology design documents (Engineering Design Report). Construction support, completion reporting, and long-term monitoring will be scoped in future authorization requests.

### **D. PROJECT DETAILS**

#### ***Scope of Project:***

The basic terms of the draft Consent Decree obligate the Port to implement the CAP, which includes the Engineering Design Report, compliance monitoring plans, construction plans and specifications, construction progress reporting, and implementation of institutional controls.

#### ***Scope of Work for This Request:***

- Sign the cleanup action Consent Decree (\$0).

- Parcel 1B (EBC) Cost recovery (\$230,000).
  - Phase 1:
    - Generate claim summaries for each of the three defendants.
    - Enter non-binding mediation to attempt settlement of claims.
- Parcel 1B (EBC) Design and Permitting (\$595,000)
  - Prepare bid documents
  - Obtain appropriate permits
  - Prepare Engineering Design Report for Ecology

### ***Schedule***

Phase 1 of cost recovery will be completed in fourth quarter of 2019 if mediation goes forward as expected.

It is anticipated that the design and construction scope will take 28 months to accomplish, from the end of 2018 to the beginning of 2021, with cleanup construction occurring in summer and fall of 2020. Due to the need to perform shoreline stabilization work during the in-water work window to minimize impact to aquatic species, delays in the permitting process could trigger a full year delay in cleanup construction implementation.

Design and Permitting Begin	December 2018
Design and Permitting Complete	November 2019
Construction Authorization	December 2019
Advertise for Construction	February 2020
Construction Complete	December 2020
Administrative Closeout	March 2021

## **E. FINANCIAL SUMMARY**

### **Estimated Cost of Project**

The total estimated project cost including all stages for the EBC Parcel 1B Cleanup Project is estimated at \$6,896,000.

### **Estimated Cost for This Request**

The total estimated cost of the Parcel 1B (EBC) Remediation Design is \$595,000. If the cost of this estimate is anticipated to exceed the authorized amount, additional Commission authorization will be requested.

The total estimated cost of the Parcel 1B (EBC) Cost Recovery is \$230,000. If the cost of this estimate is anticipated to exceed the authorized amount, additional Commission authorization will be requested.

### **Estimated Sales Tax**

The total sales tax to be paid to local and state governments for this project is \$0 for the design portion and estimated at \$300,000 for the future construction portion.

### **Cost Details - Parcel 1B (EBC) – Project Summary**

Parcel 1B (EBC)	MID	This Request	Total Previous Requests	Total Estimated Project Costs	Cost to date	Remaining Costs
Investigation	95208	\$0	\$1,438,000	\$1,438,000	\$1,432,041	\$5,959
Cost Recovery	101287.02	\$230,000	\$0	\$230,000	\$0	\$230,000
Remediation Design	101287.01	\$595,000	\$0	\$595,000	\$0	\$595,000
Remediation Construction	101287.01	\$0	\$0	\$4,633,000	\$0	\$4,633,000
<b>TOTALS</b>	<b>--</b>	<b>\$825,000</b>	<b>\$1,438,000</b>	<b>\$6,896,000</b>	<b>\$1,432,041</b>	<b>\$5,463,959</b>

Remediation construction costs are a high-level estimate at this time.

### **Source of Funds**

The current Capital Investment Plan (CIP) allocates \$5,002,000 for the EBC Parcel 1B Remediation Design and Construction project and \$230,000 for the EBC Parcel 1B Cost Recovery project. The CIP will be updated during the 2019 budget process to include this authorization.

### **Financial Impact**

Project costs for the cleanup and cost recovery will be expensed as incurred. Excess tax levy will be used to fund this project.

## **F. ALTERNATIVES CONSIDERED AND THEIR IMPLICATIONS**

Alternative 1) Do Nothing. Ecology will issue an Enforcement Order requiring the Port to implement the CAP.

Alternative 2) This request.

**Alternative 2 is the recommended course.**

## **G. ENVIRONMENTAL IMPACTS/REVIEW**

Permitting: The cleanup action for the Site will be conducted under a Consent Decree and, therefore, is exempt from the procedural requirements of certain state laws and local permits (WAC 173-340-710[9]), but must comply with the substantive requirements of these laws and permits. Required national permit submittals include a Joint Aquatic Resources Permit Application (JARPA) submittal, a biological assessment, and a water quality monitoring plan.

Water Quality: Substantive requirements of the Section 401 Water Quality Certification must be met, and a National Pollution Discharge Elimination System Construction Stormwater General Permit must be acquired.

Air Quality: Port construction contracts require a minimum emission standard of Tier 2 equipment, per the Northwest Ports Clean Air Strategy.

#### H. PREVIOUS ACTIONS OR BRIEFINGS

- 1990s-era EBC environmental work (building demolitions, underground tank removals, and Phase I and II Environmental Site Investigations);
- 2007 Pier 24/25 cleanup work required under the Mouth of the Hylebos Consent Decree, as part of the Commencement Bay Nearshore Tidelands Superfund site cleanup;
- 2008 Environmental and geotechnical investigations related to the Blair-Hylebos Peninsula Terminal Redevelopment Project;
- 2009 Underground Storage Tank (UST) Removal & Soil Remediation Project (a portion of which occurred within the EBC);

Work completed prior to 2012 is included in the Commission Action table below:

<u>Date</u>	<u>Action</u>	<u>Amount</u>
Pre-2013	Previous environmental work noted above (excluding Piers 24/25)	\$510,000
January 17, 2013	Commission Authorization to enter the Agreed Order DE 9553	\$0
January 17, 2013	Contract Authorization for Crete Consulting for Agreed Order Work	\$400,000 (actuals = \$270,000)*
May 5, 2014	Commission Project Authorization	\$658,000
<b>TOTAL</b>		<b>\$1,438,000</b>

\*Project costs between January 17, 2013 and the time of project authorization on May 5, 2014, were \$270,000 (+ \$510,000 for environmental work prior to 2013). The remaining cost to complete the Agreed Order was estimated at \$658,000, bringing the total project authorization to \$1,438,000

#### ATTACHMENTS TO THIS REQUEST

- Computer slide presentation.
- Consent Decree

#### I. NEXT STEPS

Complete design and return to Commission for construction authorization in December 2019. Complete Phase 1 of cost recovery in fourth quarter of 2019 if mediation goes forward as expected.