

COMMISSION AGENDA

Item No: 6D

Meeting: 9/15/22

DATE: September 1, 2022

TO: Port Commission

FROM: Eric D. Johnson, Executive Director

Sponsor: Jason Jordan, Director, Environmental and Planning Services

Project Manager: Tony Warfield, Environmental Senior Project Manager

SUBJECT: Interagency Agreement: US Army Corps of Engineers for Expedited Federal Permit Review Services – Increase Authorized Amount

A. ACTION REQUESTED

Request authorization to increase the authorized amount of existing Interlocal Agreement (ILA) No. 069213 with the US Army Corps of Engineers by \$150,000, to an amount not to exceed \$756,000, to allow for expedited federal permit review services associated with the US Army Corps of Engineers Water Resource Development Act (WRDA) Section 214 funding, Master Identification No. 101239.01

B. BACKGROUND

Pursuant to federal law, Section 214 of the WRDA authorizes the US Army Corps of Engineers (Corps) to enter into funding agreements with non-federal government entities to fund additional staff resources in support of federal permit applications. This section of the law once required periodic congressional reauthorization. However, in 2014 Congress made the Section 214 provisions permanent.

In February 2002, the Port of Tacoma and the Port of Seattle entered into a funding agreement with the Corps, Seattle District, which allowed for the funding of federal staff resources in support of federal permit applications in an amount not to exceed \$300,000. The agreement required all billing and payment to go through the Port of Seattle.

In October 2003, the Port Commission approved a no-cost increase time extension of the original request, which also modified the interagency agreement so that the agreement and payment were directly with the Corps and not the Port of Seattle.

In 2006, the Port of Tacoma and Corps amended the interagency agreement so that it would remain in force until Section 214 expires or until either party elects to terminate the agreement.

In October of 2010, the Port Commission approved an additional \$150,000, for a total authorization of \$450,000.

In December of 2014, the Port Commission approved an additional \$156,000 for a total authorized amount of \$606,000. An additional \$147,000 of that authorized amount was spent over the last six and a half years for a total expenditure of approximately \$597,000. There is approximately \$9,000 remaining on this Authorization.

The Corps has a remaining balance of approximately \$1,800 and has issued a request for funds of \$20,000. The 2022 CIP allocates \$25,000 for WRDA funding.

C. SCOPE OF AGREEMENT

The scope of work encompasses all required Corps review associated with their federal permitting efforts including:

- Section 10 Review
- Section 404 Review
- Nationwide Permit Review
- NEPA Review/compliance
- Section 106 Consultations
- Endangered Species Act Consultation
- General Project Consultation and other review as allowed by law

D. BENEFITS OF AGREEMENT

WRDA agreements provide significant schedule benefits to project proponents. Time saved compared to non-WRDA proponents ranges from 33% for Individual Clean Water Act Permits to 63% for reviews that determine no permit is required. In fact, Port customer Carlisle Transportation Systems, LLC received a No Permit Required Letter recently, approximately a week after making the request. That is even faster than the time listed below.

Action	WRDA (days)	Non-WRDA (days)	Time Saved %
No Permit Required	26	70	63%
Nation-Wide Permit	50	121	59%
Permit Modification	40	98	59%
Letter of Permission (Sec 10)	186	310	40%
Individual CWA 404 Permit	253	373	32%

Source: Corps of Engineers, Seattle District

There are two main reasons for this improvement in processing time. First, the Port is assigned a Corps Project Manager (PM) that is dedicated to Port of Tacoma and Port of Seattle projects. Second, that PM becomes very familiar with large industrial ports and does not need to “come up to speed” with every project or request.

E. FINANCIAL SUMMARY

Estimated Cost of Project

The total cost of supporting the Corps’ permitting efforts through 2027 is estimated at \$756,000. This would provide approximately five years of Corps funding.

Cost Details

Original Authorized Amount	\$300,000
2010 Amendment	\$150,000
2014 Amendment	\$156,000
This Change Amount	\$150,000
Revised Authorized Amount	\$756,000

Source of Funds

The current Capital Investment Plan (CIP) allocates \$125,000 for this project for 2022-2027. It will be updated during the 2023 budget cycle.

Financial Impact

Project costs will be expensed as incurred.

F. ALTERNATIVES CONSIDERED AND THEIR IMPLICATIONS
Alternative 1: No Action: This would remove the Port of Tacoma from the WRDA funding process eliminating access to the Corps regulatory PM dedicated to working on port projects. That would very likely slow the permitting of Port of Tacoma construction projects considerably.

Alternative 2: Continue to fund the Corps WRDA program: This would maintain our access to WRDA project managers and expedite our permits compared not participating in WRDA and having our projects reviewed in the general public queue.

Alternative 2 is the recommended course.

G. ENVIRONMENTAL IMPACTS / REVIEW

Permitting: This action will help expedite federal permits for Port construction/maintenance projects.

Remediation: N/A

Stormwater: N/A

Air Quality: N/A

H. PREVIOUS ACTIONS OR BRIEFINGS

Date	Action	Amount
2002	Original Authorization	\$300,000
2010	Amendment	\$150,000
2014	Amendment	\$156,000
TOTAL		\$606,000

I. ATTACHMENTS TO THIS REQUEST

Attachment A: Agreement and most recent Amendment with Department of the Army – 2006

Attachment B: Agreement with Department of the Army – 2002

J. NEXT STEPS

Upon Commission approval, initiate Corps payment for expedited federal permit review.