

COMMISSION AGENDA

Item No: 4C

Meeting: 7/18/19

DATE: July 3, 2019

TO: Port Commission

FROM: Eric Johnson, Executive Director
Sponsor: Scott Francis, Director, Real Estate
Project Manager: Scott Hooton, Environmental Project Manager II

SUBJECT: Project Authorization Increase for work associated with the Taylor Alexander Fill Area.

A. ACTION REQUESTED

As referenced in Resolution No. 2018-01-PT, Exhibit A, Delegation of Authority Master Policy, Paragraph IV.B.(2), states project costs exceeding \$300,000 require approval from Port Commission.

Request additional project authorization in the amount \$212,000 for a total authorized amount of \$462,000, for work associated with the Taylor Way and Alexander Avenue Fill Area, Master Identification No. 101082.01.

B. SYNOPSIS

Support marketing efforts for a 30.48 acre multi-parcel property (Port Parcels 6, 65, 102, 114, 116, and 117) for redevelopment. This request also stems from Ecology requirements to investigate Parcel 117 for hazardous substances in soil and groundwater.

C. BACKGROUND

The Washington Department of Ecology (Ecology) included three Port Parcels in a draft agreed order for a former landfill now referred to as the "Taylor Way and Alexander Avenue Fill Area" (TWAAFA). The TWAAFA includes 50.13 acres of property of which 27.92 acres are owned by the Port (Port Parcels 95, 111, and 117). Active and abandoned dangerous waste treatment and disposal facilities comprise the remainder of TWAAFA. Port Parcel 117 is also part of a 30.48-acre area commercial redevelopment opportunity available to the Port.

TWAAFA legacy contamination is attributable to a variety of activities and sources. During the 1960s to the early 1980s, hazardous materials and other solid wastes were used as fill, including lime solvent sludge (Hooker Chemical Co), auto fluff (General Metals), wood waste, and other lime wastes (Graymont Western). Numerous releases of petroleum, solvents, acids, caustics, and other volatile and semi-volatile compounds are associated with the active and/or abandoned hazardous waste facilities.

In 2005, Ecology provided notice of potential liability for the TWAAFA under the Model Toxics Control Act (MTCA). Potentially Liable Parties (PLPs) include the former owner and operator of the landfill (Donald Oline); Originators of hazardous materials placed in the landfill (Occidental and General Metals); the owner of the active hazardous waste facility (Philip Services Corporation); the owner of the abandoned hazardous waste facility (David Bromley); and the Port. Unlike the other PLP's, the Port's MTCA liability stems from property ownership alone. The Port did not engage in – or benefit from -- the generation, transportation, storage, treatment, or disposal of any hazardous materials at the TWAAFA.

In 2016, Ecology issued a draft Agreed Order to four of the PLPs (General Metals, Occidental, Philip Services Corporation, and the Port). The Agreed Order requires the completion of a Remedial Investigation, Feasibility Study, and draft Cleanup Action Plan. The PLPs entered into a Joint Defense, Common Interest Agreement and Cost-Sharing Agreement for purposes of negotiating the scope of the Agreed Order in 2017.

The Port purchased Parcel 117 in 2008 and indemnified the seller (City of Tacoma). The property has never been developed. Although groundwater contamination has been documented, no hazardous substances above relevant action levels have been detected in soil. Ecology included Parcel 117 in the Agreed Order based on the suspicion that fill soils along the common boundary with the dangerous waste facility may contain hazardous substances associated with the TWAAFA, and certain anecdotal reports of unauthorized dumping.

Ecology later agreed to review and approve a Data Gap Work Plan (Work Plan) prepared by a consultant selected by the PLPs prior to each party's decision to enter into a final Agreed Order. The Work Plan was submitted to Ecology in January 2019. Owing to turnover of staff, Ecology informed the PLPs that the Work Plan and Agreed Order comments would not be reviewed until two positions were filled – a process expected to take more than six months. During a follow-up call with Ecology in March, staff expressed the Port's motivation to develop Parcel 117 together with several contiguous properties while market conditions remained favorable.

The Ecology Unit Supervisor approved implementation of the aspects of the Work Plan pertinent to Parcel 117 as an independent action. If soil contamination is not identified, staff believe Ecology can be persuaded to remove Parcel 117 from the Agreed Order. If contamination is identified, additional remedial work will be necessary to address contamination as part of the redevelopment of the property.

The work proposed in this authorization request for Port Parcel 117 will eventually be required under an Ecology Order.

D. PROJECT DETAILS

Scope of Project:

- Facilitate Avenue55's execution of a long-term lease agreement at Port Parcel 95 at 1514 Taylor Way by *entering into an Agreed Order with Ecology for implementation of an Interim Action Plan* by Avenue55 during property redevelopment in 2017. Commission authorized entry into the Agreed Order on June 15, 2017. The property

has since been redeveloped and the interim action implantation is nearly complete. We expect to close out the Agreed Order in 2019 or early 2020.

- Negotiate and execute a Joint Defense, Common Interest Agreement and Cost Sharing Agreement for Pre-Agreed Order Actions between the Port, General Metals of Tacoma (GMT), Occidental Chemical Company (Occidental) and Stericycle Environmental Solutions (Stericycle). This agreement was concluded on May 22, 2017.
- Negotiate an Agreed Order between Ecology, the Port, GMT, Occidental and Stericycle to prepare a remedial investigation/feasibility study (RI/FS) and draft Cleanup Action Plan (dCAP). As part of that effort, the PLP Group request a waiver of past costs incurred by Ecology (\$362,132.24). Negotiations have been suspended by Ecology until additional personnel have been hired.
- Complete a Pre-Agreed Order Data Gaps Work Plan (Work Plan) The Work Plan was submitted to Ecology in January 2019. Formal approval of the Work Plan will not occur until Ecology hires and trains additional personnel.

Scope of Work for This Request:

- Implement portions of the Work Plan relevant to Parcel 117, including:
 - Abandon three improperly constructed monitoring wells
 - Drill three (3) deep boreholes with discrete depth groundwater sampling for Volatile Organic Chemicals (VOCs), Total Petroleum Hydrocarbons (TPH), Semi-Volatile Organic Chemicals (SVOCs), Polychlorinated Biphenyls (PCBs) and metals,
 - Install three deep groundwater monitoring wells;
 - Advance four (4) soil borings within the fill area adjacent to the Stericycle facility. Test soil for VOCs, TPH, SVOCs, PCBs, and metals. Test groundwater for VOCs, TPH, SVOCs, PCBs, metals and methane; and
 - Two quarterly groundwater monitoring sampling events (seven wells).

Schedule

Complete field effort and reporting to Ecology by 1Q2020.

E. FINANCIAL SUMMARY

Estimated Cost of Project

The cost to implement the Work Plan on Port Parcel 117 is \$212,000. If significant contamination is identified, additional Commission authorization will be required to complete the engineering design for an interim action to remediate the identified contamination.

Commission authorization will be required prior to entering into an Ecology Order, as well as a joint defense and cost-sharing agreement with other PLPs for implementation.

Cost Details

Item	This Request	Total Previous Requests	Total Request	Total Project Cost	Cost to Date	Remaining Cost
TOTAL	\$212,000	\$250,000	\$462,000	\$462,000	\$201,282	\$260,718

Source of Funds

The 2019-2023 Capital Investment Plan allocates \$774,000 for this project.

Financial Impact

Project costs will be expensed as incurred. The costs related to this project will be expensed as incurred and are included in the 2019 operating budget.

F. ALTERNATIVES CONSIDERED AND THEIR IMPLICATIONS

Alternative 1) No immediate action. Ecology would likely compel the Port to perform a comparable investigation over the next 2-5 years. The resolution of potential contamination constraints will complicate and delay property redevelopment.

Alternative 2) This request.

Alternative 2 is the recommended course.

G. ENVIRONMENTAL IMPACTS/REVIEW

Permitting:

None identified

Remediation:

This request is part of a remediation effort.

Stormwater:

None identified

Air Quality:

None identified

Invasive Species:

Since 2005, the Port has been engaged in a cooperative effort with the US Department of Agriculture (USDA) and the Washington State Department of Agriculture (WSDA) to eradicate an invasive and very destructive invasive species (Vineyard Snail) on the Blair-Hylebos Peninsula. Those efforts have reduced the affected area to Parcel 117 alone as evidenced in the annual survey reports provided to the USDA and WDSA. The resilience of this population of Vineyard Snails is attributed to the abundance of vegetation. Property

redevelopment will expedite the completion of the eradication effort thus avoiding the imposition of quarantines that would limit the flow of cargo from the Port area.

H. PREVIOUS ACTIONS OR BRIEFINGS

<u>Date</u>	<u>Action</u>	<u>Amount</u>
April 10, 2017	Executive Authorization	\$100,000
May 31, 2017	Commission Authorization to Enter into Agreed Order with Ecology – Port of Tacoma	\$0
March 13, 2018	Executive Authorization	\$150,000
TOTAL		\$250,000

I. ATTACHMENTS TO THIS REQUEST

- Computer slide presentation.

J. NEXT STEPS

Implement Work Plan and report results to Ecology.

If no substantive contamination is identified, Port staff expect that Ecology can be persuaded to remove Parcel 117 from the draft Agreed Order.

If contamination is identified, additional work will be necessary to remediate the property.