

# PROJECT ACTION MEMO

Port of Tacoma Commission



Item No: 5C  
Meeting Date: 7/16/24

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**DATE:** July 9, 2024  
**TO:** Port of Tacoma Commission  
**FROM:** Eric Johnson, Executive Director  
Sponsor: Jason Jordan, Director of Environmental & Planning Services  
Project Manager: Rob Healy, Environmental Sr. Manager  
**SUBJECT:** Portac Settlement Agreement

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**A. ACTION REQUESTED**

Request authorization for the Executive Director or his delegate to enter into a Settlement Agreement with Aspect Consulting, LLC to resolve a dispute regarding the Permeable Reactive Barrier installation at the Portac, Inc. Tacoma Site (Parcel 15) ("Portac").

**B. BACKGROUND**

The Port and Aspect Consulting LLC ("Aspect") entered a series of contracts beginning in 2021, to satisfy the Port's cleanup obligations under an Agreed Order entered with the Department of Ecology ("Ecology"). Aspect agreed to complete work that included, among other things, the design, testing, inspection, and monitoring associated with installation of a permeable reactive barrier ("PRB") intended to trap contamination while allowing groundwater to flow through. After a significant portion of the PRB had been completed it was determined that insufficient zero valent iron ("ZVI") had been included in the PRB mix. The PRB was removed and replaced and has since been confirmed to meet Ecology's requirements.

The Port sent a letter to Aspect in January 2024, demanding payment for additional expenses incurred in reconstructing the PRB. Aspect tendered the matter to its insurer, defense counsel was assigned, and Aspect requested that the parties participate in mediation, which is required under the parties' contract. The parties mediated with retired Judge Ronald Leighton on June 17, 2024, and reached a proposed settlement of the dispute, which is subject to Commission approval.

**C. PROPOSED SETTLEMENT TERMS**

- On behalf of Aspect/Geosyntec, Crum & Forster (Aspect's insurance carrier) will pay the Port of Tacoma \$257,000.

Aspect/Geosyntec and Port of Tacoma fully and mutually release each other (including predecessors, successors, officers, directors, employees, representatives, and insurers) from any and all claims arising from or related to the design, construction, and performance of the Permeable Reactive Barrier wall for the Portac (Parcel 15) Cleanup.

- This settlement does not apply to future services performed by Aspect/Geosyntec for the Portac, Inc. Tacoma Site (Parcel 15) Cleanup.
- The Port of Tacoma shall direct Olson Brothers Construction to send a letter to the Port of Tacoma and Aspect stating that Olson does not have and will not make any claims against Aspect/Geosyntec related to the design, construction, and performance of the Permeable Reactive Barrier wall for Portac, Inc. Tacoma Site (Parcel 15) Cleanup.