

PROJECT ACTION MEMO

Port of Tacoma Commission



Item No: 6C
Meeting Date: 8/15/23

DATE: August 7, 2023
TO: Port of Tacoma Commission
FROM: Eric Johnson, Executive Director
Sponsor: Jason Jordan, Director—Environmental & Planning Services
Project Manager: Sarah Weeks, Environmental Project Manager I
SUBJECT: Project Authorization for Parcel 1B Earley Business Center Cleanup Action and Amendment to Agreed Order DE 9553 with Washington State Department of Ecology

A. ACTION REQUESTED

1. Request project authorization in the amount \$430,000 for a total authorized amount of \$2,793,000 for work associated with the Parcel 1B Earley Business Center, Master Identification No. 101287.03
2. Request authorization to enter an amendment to Agreed Order DE 9553 with the Washington State Department of Ecology for Parcel 1B Earley Business Center, Master Identification No. 101287.03.

Strategic Plan Initiative: EL-1.

B. SYNOPSIS

The Port of Tacoma (Port) project team and the Washington State Department of Ecology (Ecology) have negotiated an amendment to Agreed Order DE 9553. The amendment will commit the Port to completing a supplemental remedial investigation, a feasibility study, and a draft cleanup action plan for Parcel 1B Earley Business Center (the Site).

C. BACKGROUND

On January 17, 2013, the Port entered Agreed Order DE 9553 (the Order) with Ecology for completion of a remedial investigation (RI), feasibility study (FS), and draft cleanup action plan (DCAP). Between 2013 and 2017 the work was completed. In April 2017, Ecology notified Port staff that the provisions of the Order had been satisfied. On April 29, 2020, Ecology rescinded their approval and sent the Port formal notification that the requirements of the Order have not been fully satisfied and that additional work is required. Since April 2020 the Port and Ecology have been trying to reach a compromise on a path forward. On May 5, 2020, the Port sent a formal letter to the program manager for Ecology's Toxics Cleanup Program, stating the Port's position that the Order was satisfied, given the previous PM's notice that the Order commitments had been met, and substantial changes, like additional RI work, can only be accomplished through an amendment to the Order.

The Port and Ecology held several technical meetings to see if the issues could be resolved without an amendment. However, it became clear that an amendment would be necessary. In particular,

the amendment needed to address the site definition and amend the scope of work to address RI data gaps.

The Order amendment redefines the EBC property as a single facility, rather than a group of discrete subareas. The original Order defined the EBC Site as consisting of seven areas impacted by discrete or severable releases of contamination from past property operations, referred to as 'subareas.' These subareas were defined based on previous investigations that identified similar contaminants and similar potential sources within the subareas. Contamination that has migrated onto the property from the adjacent Occidental Chemical Corporation cleanup site is carved out of the Order.

Remedial investigation data gaps will be addressed by a supplemental RI as outlined in the supplemental scope of work that accompanies the Order amendment. The supplemental RI will include assessment of the usability of historical project data, updated screening levels, and development of a conceptual site model to support project planning and decision-making for the Site. Once data gaps are addressed via the supplemental RI, the FS and DCAP will be redrafted for review and approval by Ecology.

The Port and Ecology are also discussing potential interim actions. An interim action is distinguished from a cleanup action in that an interim action only partially addresses the cleanup of a site. Interim actions typically correct a problem that may become substantially worse or cost substantially more to address if the remedial action is delayed. Interim actions may occur anytime during the cleanup process. The Blair Waterway shoreline is a good candidate for an interim action; erosion and deterioration of the armoring has progressed with each storm season. Execution of an interim action is not included in this request and would require Commission authorization.

This request is for authorization to execute the Order amendment with Ecology and fund the supplemental scope of work through the drafting of the Supplemental RI Work Plan, which included completion of a Historical Data Usability Technical Memorandum and a Conceptual Site Model.

D. PROJECT DETAILS

Scope of Project:

Agreed Order DE 9553 Amendment 1 Tasks:

1. Supplemental Remedial Investigation Work Plan
 - a. Historical Data Usability Technical Memorandum
 - b. Conceptual Site Model
2. Supplemental Remedial Investigation and Supplemental Remedial Investigation Report
3. Feasibility Study Report
4. Draft Cleanup Action Plan
5. SEPA Support

Scope of Work for This Request:

Agreed Order DE 9553 Amendment 1, Task 1:

1. Supplemental Remedial Investigation Work Plan
 - a. Historical Data Usability Technical Memorandum
 - b. Conceptual Site Model

Schedule:

- Complete scope of work for this request by the end of 2024.

E. FINANCIAL SUMMARY**Estimated Cost of Project**

Project costs to date are \$1,920,944. The current Capital Investment Plan (CIP) allocates \$5,754,000 for the project, inclusive of costs for remedy implementation. The estimate is based on a now outdated remedial design and construction estimate from the 2018 DCAP of \$5,030,000. The remedial design and construction estimate will be updated with the revised DCAP. The current project estimate includes Task 1 of the Agreed Order (AO) amendment but not Task 2 through 5. An estimate for Tasks 2 through 5 will be developed after the Supplemental RI Work Plan has been completed, the CIP will be updated accordingly.

Estimated Cost for This Request

The total estimated cost of this request is \$430,000. The Order amendment marks a transition for the project, the old MID (095208) will be closed, and new MID (101287.03) will be used for investigation costs going forward. If the cost of this estimate is anticipated to exceed the authorized amount, additional Commission authorization will be requested.

Cost Details

Cost through drafting of the Supplemental Remedial Investigation Work Plan:

| Parcel 1B (EBC) | MID | This Request | Total Previous Requests | Total Estimated Project Costs | Cost to Date | Remaining Cost |
|------------------------------|-----------|-------------------|-------------------------|-------------------------------|---------------------|-------------------|
| Investigation | 95208 | - | \$ 1,538,000 | \$ 1,538,000 | \$ 1,529,155 | \$ 8,845 |
| Investigation – AO Amendment | 101287.03 | \$ 430,000 | - | \$ 430,000 | - | \$ 430,000 |
| Cost Recovery | 101287.02 | \$ 0 | \$ 230,000 | \$ 230,000 | \$ 111,432 | \$ 118,568 |
| Remediation Design | 101287.01 | \$ 0 | \$ 595,000 | \$ 595,000 | \$ 280,357 | \$ 314,643 |
| TOTALS | -- | \$ 430,000 | \$ 2,363,000 | \$ 2,793,000 | \$ 1,920,944 | \$ 872,056 |

Project costs to date are \$1,920,944. This project has received three MTCA Ecology Remedial Action Grants appropriated by the State Legislature. Grant reimbursements to date come to \$500,843.87, \$1.5M remains in grant funding for eligible past costs and future costs.

Design work that began after the original AO commitments were approved by Ecology was shelved and is now largely irrelevant. Roughly 50% of the authorized design budget (\$280,357) has been spent to date and is a sunk cost. Remaining design funds may be applied to potential interim action design.

Total net costs to the Port = \$1,420,100 (cost to date – grant reimbursements)

Source of Funds

The current Capital Investment Plan (CIP) allocates \$430,000 for MID No. 101287.03.

Financial Impact

Project costs will be expensed as incurred. Grant income will be recorded as non-operating revenue at the time reimbursement is requested.

F. ALTERNATIVES CONSIDERED AND THEIR IMPLICATIONS

Alternative 1: Do not approve this request. In response, Ecology could issue an Enforcement Order.

Alternative 2: Approve this request and proceed with Site cleanup planning.

Alternative 2 is the recommended course.**G. PREVIOUS ACTIONS OR BRIEFINGS**

- 1990s-era EBC environmental work (building demolitions, underground storage tank (UST) removals, and Phases 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 since 2012 is included in the table below:

| Date | Action | Amount |
|--------------------|--|--------------------------------------|
| 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 Agreed Order scope of work | \$ 400,000 (actuals ~ \$270,000)* |
| May 5, 2014 | Commission Project Authorization | \$ 658,000 |
| November 29, 2018 | Commission Authorization to sign the Consent Decree for cleanup implementation and funding to begin engineering design | \$ 825,000 |
| September 17, 2020 | Commission Authorization to resolve dispute with Ecology | \$ 100,000 |
| September 17, 2020 | Commission Authorization to enter a grant agreement with Ecology for \$1,548,000 | \$ 0 |
| TOTAL | | \$ 2,363,000 |

H. NEXT STEPS

Complete the Supplemental Remedial Investigation Work Plan and return to Commission for authorization to complete the RI field work and reporting, anticipated in late 2024 or early 2025.