



# Port of Seattle Regular Commission Meeting

September 9, 2025



## COMMISSION REGULAR MEETING AGENDA

September 9, 2025

To be held virtually via MS Teams and in person at Port of Seattle Headquarters Building, Commission Chambers, located at 2711 Alaskan Way, Seattle Washington. You may view the full meeting live at [meetings.portseattle.org](https://meetings.portseattle.org). To listen live, call in at +1 (206) 800-4046 or (833) 209-2690 and Conference ID 876 096 802#

### ORDER OF BUSINESS

10:30 a.m.

#### 1. CALL TO ORDER

2. **EXECUTIVE SESSION** – *if necessary, pursuant to RCW 42.30.110 (executive sessions are not open to the public)*

#### ► 12:00 p.m. – PUBLIC SESSION

Reconvene or Call to Order and Pledge of Allegiance

3. **APPROVAL OF THE AGENDA** (*at this time, commissioners may reorder, add, or remove items from the agenda*)

#### 4. SPECIAL ORDERS OF THE DAY

4a. Proclamation Recognizing September 15 - October 15 as Latino Heritage Month at the Port of Seattle.  
(proclamation enclosed)

#### 5. EXECUTIVE DIRECTOR'S REPORT

#### 6. COMMITTEE REPORTS

7. **PUBLIC COMMENT** – *procedures available online at <https://www.portseattle.org/page/public-comment-port-commission-meetings>*

During the regular order of business, those wishing to provide public comment (in accordance with the Commission's bylaws) on Commission agenda items or on topics related to the conduct of Port business will have the opportunity to:

**1) Deliver public comment via email:** All written comments received by email to [commission-public-records@portseattle.org](mailto:commission-public-records@portseattle.org) will be distributed to commissioners and attached to the approved minutes. Written comments are accepted three days prior to the meeting and before 9.a.m. on the day of the meeting. Late written comments received after the meeting, but no later than the day following the meeting, will be included as part of the meeting record.

**2) Deliver public comment via phone or Microsoft Teams conference:** To take advantage of this option, please email [commission-public-records@portseattle.org](mailto:commission-public-records@portseattle.org) with your name and agenda item or topic related to the conduct of Port business you wish to speak to by 9:00 a.m. PT on Tuesday, September 9, 2025. **(Please be advised that public comment is limited to agenda items and topics related to the conduct of Port business only.)** You will then be provided with instructions and a link to join the Teams meeting.

**3) Deliver public comment in person by signing up to speak on your arrival to the physical meeting location:** To take advantage of this option, please arrive at least 15 minutes prior to the start of any regular meeting to sign-up on the public comment sheet available at the entrance to the meeting room to speak on agenda items and topics related to the conduct of Port business.

**For additional information**, please contact [commission-public-records@portseattle.org](mailto:commission-public-records@portseattle.org).

**8. CONSENT AGENDA** (*consent agenda items are adopted by one motion without discussion*)

8a. Approval of the Regular Meeting Minutes of August 12, 2025. **(no enclosure)**

8b. Monthly Notification of Prior Executive Director Delegation Actions August 2025. **(memo enclosed)** – For Information Only.

8c. Order No. 2025-08: An Order Reappointing a Member to the Port of Seattle Commission Board of Ethics for 2025 - 2028. **(Order enclosed)**

8d. Commission Approval of International Travel Requests for Known Travel in the Fourth Quarter 2025. **(memo enclosed)**

8e. Authorization for the Executive Director to Enter into a Memorandum of Understanding with Laborers Local Union 242 Affiliated with the Seattle Building Trades, Allowing the Port to Contribute a 2.5 Percent PTO Benefit for Emergency Hires, Limited-Duration Employees, and Apprentices. **(memo and agreement enclosed)**

8f. Order No. 2025-09: An Order to Rename the South King County Community Impact Fund as the South King and Port Communities Fund. **(Order enclosed)**

8g. Authorization for the Executive Director to Enter into a Memorandum of Understanding with the Seattle Building Trades, Allowing the Port to Install and Utilize Fleet Vehicle Telematics and Vehicle Cameras in Port Vehicles Operated by Represented Members of the Seattle/King County Building and Construction Trades Council. **(memo and agreement enclosed)**

8h. Authorization for the Executive Director to Sign and Execute an Environmental Protection Agency Administrative Settlement Agreement and Order on Consent Requiring the Port of Seattle, City of Seattle, and King County to Perform Remedial Design for the East Waterway Operable Unit of the Harbor Island Superfund Site; and to Sign a Potential Responsible Party Cost Sharing Agreement Between the Port of Seattle, City of Seattle, and King County to Share the Costs to Perform the Scope of Work. **(memo, agreement 1, agreement 2, and presentation enclosed)**

- 8i. Authorization for the Executive Director to Approve Funding to Design, Obtain Permits, Advertise and Execute a Small Works Construction Contract for PCS to Demolish the Fishermen’s Terminal C14 Downie Building in the Amount of \$600,000, and to Complete Design and Permitting of the Entry and Exit Paving Project in the Amount of \$650,000, for a Total Request of \$1,250,000, for a Total Estimated Project Cost of \$4,400,000. (CIP #C801890) **(memo and presentation enclosed)**

## 10. NEW BUSINESS

- 10a. Authorization for the Executive Director to Advertise, Award, and Execute a Major Works Construction Contract; to Execute Related Project Change Orders, Amendments, Work Authorizations, Purchases, Contracts, to Take Other Actions Necessary to Support and Deliver the Utility Meter Networking Project within the Approved Budget; and to Authorize Use of Port of Seattle Crews to Support Construction Activities, in the Requested Amount of \$31,175,000, for a Total Estimated Cost of \$35,525,000. (CIP #C801240) **(memo and presentation enclosed)**
- 10b. Introduction of Resolution No. 3838: A Resolution Establishing a Revised Welcoming Port Policy Directive and Amending Resolution No. 3747, in Order to Demonstrate the Port’s Ongoing Commitment to Supporting Immigrants, Refugees, and International Visitors in Line with the Port’s Mission and Values. **(memo, resolution, and presentation enclosed)**
- 10c. Commission Authorization of the Development and Implementation of an Expanded Maritime Workforce Investment Strategy and Authorizing the Executive Director to Contract with Organizations Providing Outreach, Recruitment, Employer Engagement, Job Training, and Career Services in the Maritime Industry, in the Requested Amount of \$2,170,000, for the Period of Three Years. **(memo and presentation enclosed)**

## 11. PRESENTATIONS AND STAFF REPORTS

- 11a. Cyberattack Response Briefing. **(memo and presentation enclosed)**

## 12. QUESTIONS on REFERRAL to COMMITTEE and CLOSING COMMENTS

## 13. ADJOURNMENT



**PROCLAMATION  
OF THE PORT OF SEATTLE COMMISSION**

**WHEREAS,** Hispanic and Latino communities have been nationally recognized for their histories, cultures, and influence, dating back to President Lyndon Johnson’s “National Hispanic Heritage Week” proclamation on September 17, 1968; and

**WHEREAS,** national recognition expanded under President Ronald Reagan in 1988 and by President George H.W. Bush on September 14, 1989, when the 31-day period from September 15 to October 15 as National Hispanic Heritage Month, was first declared; and

**WHEREAS,** in 2025 68.4 million Latinos reside in the United States, representing over 20 percent of the total US population; of those over 8.1 million live in Washington State. King County’s population includes over 190,000 Latinos, with generations of whom helped shape our society, economy, culture, and values; and

**WHEREAS,** the theme for 2025’s observance is “Collective Heritage: Honoring the Past, Inspiring the Future.” The theme invites us to connect with our Latino Heritage and Community and encourages us to ensure that all voices are represented and welcomed to help build stronger communities and a stronger nation; and

**WHEREAS,** Latino history is American history, and honoring the past contributions, struggles, and achievements of Latino communities is critical to inspiring the future and realizing the promise of a more just and inclusive nation; and

**WHEREAS,** Latino laborers — including farmworkers, construction workers, domestic workers, landscapers, cooks, and dishwashers — make essential yet often overlooked contributions that drive our local economy and support the prosperity of our communities; and

**WHEREAS,** the agricultural abundance of our state depends on the skill and dedication of Latino farmworkers, whose labor ensures food security, sustains local economies, and strengthens the vitality of our region; and

**WHEREAS,** deep uncertainty and anxiety have been created for many due to fears of deportation, family separation, and restricted access to essential services—intensified by immigration enforcement and policy shifts targeting programs like Deferred Action for Childhood Arrival (DACA) and Temporary Protected Status; and

**WHEREAS,** these actions have contributed to a chilling effect on immigrant engagement and raised serious concerns about racial profiling, legal access, and the erosion of trust in public institutions; and

**WHEREAS,** despite these challenges, Latino communities continue to demonstrate resilience, enrich our culture, strengthen our economy, and lead with vision and determination; and

**WHEREAS,** the Port of Seattle stands in unwavering solidarity with Latino communities and proudly recognizes the impactful work of Latinos Unidos in fostering connection, education, and advocacy—uplifting Latino voices and cultivating a culture of belonging, resilience and inclusion across the Port.

**NOW, THEREFORE,** the Port of Seattle Commission hereby recognizes September 15th - October 15th as Latino Heritage Month at the Port of Seattle.

Proclaimed by the Port of Seattle Commission this 9th day of September 2025.

Port of Seattle Commission

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Port of Seattle Commission



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## **APPROVED MINUTES COMMISSION REGULAR MEETING**

**August 12, 2025**

The Port of Seattle Commission met in a regular meeting Tuesday, August 12, 2025. The meeting was held at the Port of Seattle Headquarters Building Commission Chambers, located at 2711 Alaska Way, Seattle Washington, and virtually on Microsoft Teams. Commissioner Felleman was excused from attendance at the meeting.

### **1. CALL to ORDER**

The meeting was convened at 10:31 a.m. by Commission President Toshiko Hasegawa.

### **2. EXECUTIVE SESSION pursuant to RCW 42.30.110**

The public meeting recessed into executive session to discuss two items regarding Litigation/Potential Litigation/Legal Risk per RCW 42.30.110(1)(i), with one item also regarding National Security per RCW 42.30.110(1)(a)(i) for approximately 60 minutes, with the intention of reconvening the public session at 12:00 p.m. Following the executive session, the public meeting reconvened at 12:03 p.m. Commission President Toshiko Hasegawa led the flag salute.

### **3. APPROVAL of the AGENDA**

The agenda was approved, as amended, with Agenda Item 8j removed from the Consent Agenda.

### **4. SPECIAL ORDERS OF THE DAY**

There were no Special Orders of the Day presented.

### **5. EXECUTIVE DIRECTOR'S REPORT**

Executive Director Metruck previewed items on the day's agenda and made general and meeting-related announcements.

### **6. COMMITTEE REPORTS**

#### Airport Workforce Conditions Ad Hoc Committee

Commissioners Hasegawa and Mohamed convened the Airport Workforce Conditions Ad Hoc Committee on July 15, 2025, where they received a briefing on the SEA Workers Healthcare study findings, which analyzed the effects of healthcare benefits on business outcomes. Commissioners

*Digital recordings of the meeting proceedings and meeting materials are available online – [www.portseattle.org](http://www.portseattle.org).*

thanked the researchers for their thorough analysis and recommended that staff conduct external and business partner stakeholder engagements. The Committee approved the proposed timeline for policy development.

#### Audit Committee

The Audit Committee was convened on July 15, 2025, with Commissioners Calkins and Mohamed in attendance, joined by Public Member Sarah Holmstrom. The Committee received the 2024 Financial Statement Audit Results from external auditor Moss Adams. The audit looked at the Internal Control Environment; management estimates; the Northwest Seaport Alliance joint venture; looked at capital assets; bond activity; environmental remediation liability; revenue recognition; airline lease and operating agreements; compensated absences; fiduciary activities; and the FAA airport improvement program. There were no uncorrected adjustments identified as part of the auditor's procedures, and no internal control or compliance findings were made. The Committee further received general audit updates; approved an update to the 2025 Audit Plan; and received performance audit and limited control compliance audit reports. Committee members then recessed to closed session to discuss security-sensitive information related to third-party risk management.

#### Aviation Committee

Commissioners Felleman and Cho convened the Aviation Committee on July 29, 2025. Commissioners discussed an external TSA checking idea and potential barriers. Commissioners then asked how bus service will work during the 2026 FIFA World Cup, and how that service could be continued after the event. Commissioners were then briefed on the 2026 SEA Business Plan, which emphasized SEA's strengths, discussed challenges ahead, and set goals for the year. Commissioners and staff reaffirmed commitments to the Port's sustainable evaluation framework and inquired into the Port's current non-aviation revenue. Lastly, Commissioners were updated on the current federal funding risks and discussed how best to mitigate the potential loss.

#### Equity and Workforce Development Committee

The Equity and Workforce Development Committee met on July 15, 2025, with Commissioners Mohammed and Hasegawa in attendance. Two briefings were provided - an update on the Youth Maritime Career Launch Program and a report on the Port of Seattle's Anti-Human Trafficking Initiative.

#### Sustainability, Environment, and Climate Committee

Commissioner Calkins and Cho convened the Sustainability, Environment, and Climate Committee on July 15, 2025. Commissioners received an update on the Central Mechanical Plant Decarbonization and Resiliency Study and next steps, which is part of the Port's Pathway to Net Zero by 2040 scope 1 and scope 2 actions. After much discussion, Commissioners approved the recommendations to move forward with emerging technology strategy and centralized generation system.

#### Sustainability, Environment, and Climate Committee

The Committee also met on August 8, 2025, with Commissioners Cho and Calkins. Commissioners were briefed on the Sustainable Maritime Fuels Collaborative Development from its initial planning in 2023, including stakeholders, mission and values, structure, and short-term and long-term

priorities. The Committee discussed next steps forward, engagement with the hydrogen hub, and reasons for building capacity and demand early.

Highline Forum

The Highline Forum, hosted by Highline College, met on July 23, 2025, with Tukwila Councilmember Papyan presiding. As the Host, Vice President of Institutional Advancement, Josh Gerstman, delivered a comprehensive update on college activities. CEOs and Presidents of Explore Seattle Southside (Mark Everton) and the Seattle Southside Chamber of Commerce (Samantha Le), aided by Cydney Marks-Nicholes from Explore Seattle Southside then provided an overview of the activities and information available to the local communities in planning ahead for the 2026 FIFA World Cup. , Highline College's Dr. Tanya Powers; Highline School District's Gaye Bungart; and Port of Seattle's Anna Pavlik then shared their commitments and efforts towards Workforce Development programs in the Highline Area. Further, Interim Aviation Managing Director Arif Ghouse provided an update from the StART committee. He noted that StART members have begun the community roundtable's workplan for next year. During the round table sharing, Port of Seattle Local Government Relations Manager Dave Kaplan shared an update on the Sustainable Airport Master Plan environmental review process.

**7. PUBLIC COMMENT**

- The following person spoke in support of the cruise industry, thanked the Port for continuing to learn about cruise industry efforts to protect the environment and to training to their crews, as well as for shorepower availability and a great guest experience for those passing through the Port: Sally Andrews, Cruise Lines International Association.

**8. CONSENT AGENDA**

*[Clerk's Note: Items on the Consent Agenda are not individually discussed. Commissioners may remove items for separate discussion and vote when approving the agenda.]*

**8a. Approval of the Regular Meeting Minutes of July 8, 2025.**

**8b. Monthly Notification of Prior Executive Director Delegation Actions July 2025.**

Request document(s) included an agenda memorandum for information only.

**8c. Approval of the Claims and Obligations for the Period of July 1, 2025, through July 31, 2025, Including Accounts Payable Check Nos. 958749 through 959299 in the Amount of \$11,132,936.94; Accounts Payable ACH Nos. 075601 through 076541 in the Amount of \$90,001,075.04; Electronic Fund Transfer Nos. 069473 through 069495 in the Amount of \$22,913,517.65; Payroll Check Nos. 229174 through 229347 in the Amount of \$223,210.74; and Payroll ACH Nos. 1259761 through 1264791 in the Amount of \$18,997,379.98, for Total Payments of \$143,268,120.35.**

Request document(s) included an agenda memorandum.

**8d. Authorization for the Executive Director to Execute a New Collective Bargaining Agreement Between the Port of Seattle and the International Association of**

**Firefighters, Local 1257, Representing Firefighters, Captains and Battalion Chiefs at the Fire Department Covering the Period from January 1, 2025, through December 31, 2027.**

Request document(s) included an agenda memorandum and agreement.

- 8e. Authorization for the Executive Director to Execute a New Collective Bargaining Agreement Between the Port of Seattle and the International Brotherhood of Teamsters, Local 117, Representing Traffic Support Specialists at the Police Department Covering the Period from January 1, 2025, through December 31, 2026.**

Request document(s) included an agenda memorandum and agreement.

- 8f. Authorization for the Executive Director to Execute Two Indefinite Delivery, Indefinite Quantity (IDIQ) Contracts for \$7,500,000 Each for Aviation Planning Services at Seattle-Tacoma International Airport, for a Total Amount Not-to-Exceed \$15,000,000.**

Request document(s) included an agenda memorandum.

- 8g. Authorization for the Executive Director to Approve Additional Funding for Design and Construction of the Waterfront Smart Meters Program in the Amount of \$4,000,000, for a Total Authorized Amount of \$4,475,000, and a Total Estimated Program Cost of \$13,000,000. (CIP #C801269.**

Request document(s) included an agenda memorandum and presentation.

- 8h. Authorization for the Executive Director to Execute a Program Design Support Services Agreement for Terminal 91 Capital Projects Included in the 5-Year Capital Plan.**

Request document(s) included an agenda memorandum.

- 8i. Authorization for the Executive Director to Authorize Budget and to Execute Contract(s) for the Acquisition of Approximately Twenty-Nine Police Vehicles and the Equipment Required to In-Service the Vehicles, in the Requested Amount of \$3,030,000.**

Request document(s) included an agenda memorandum and presentation.

- ~~8j1. Authorization for the Executive Director to Take All Steps Necessary to Complete the South 160th Street TNC Lot Improvement Project at Seattle-Tacoma International Airport, in the Requested Amount of \$1,100,000, for a Total Estimated Project Cost of \$8,400,000. (CIP #C801186).~~**

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<sup>1</sup> Agenda Item 8j was removed from the Consent

~~Request document(s) included an agenda memorandum and presentation.~~

**The motion for approval of consent agenda items 8a, 8b, 8c, 8d, 8e, 8f, 8g, 8h, and 8i carried by the following vote:**

Commissioner Cho and Members of the Commission recognized the passage of Agenda Item 8d and Port of Seattle Firefighters in attendance.

**In favor: Calkins, Cho, Hasegawa, and Mohamed (4)**

**Opposed: (0)**

### **ITEMS REMOVED FROM THE CONSENT AGENDA**

**8j. Authorization for the Executive Director to Take All Steps Necessary to Complete the South 160th Street TNC Lot Improvement Project at Seattle-Tacoma International Airport, in the Requested Amount of \$1,100,000, for a Total Estimated Project Cost of \$8,400,000. (CIP #C801186) .**

Request document(s) included an agenda memorandum and presentation.

Presenter(s):

Peter Lindsay, Senior Manager, Landside Operations

Heather Bornhorst, Capital Program Leader, AV Project Management Group

Clerk Hart read Item 8j into the record and Executive Director Metruck introduced the item.

The presentation addressed:

- the purpose of the project – to install permanent lighting systems, restroom and wash stations, and EV chargers at the S. 160<sup>th</sup> Street TNC parking lot;
- this request for additional funding to complete the work; and
- project location, progress, schedule, and budget.

Discussion ensued regarding:

- using the State contract through the Department of Enterprise Services for EV charging stations, including maintenance on the stations;
- the number of charging stations that will be available; and
- these charging stations being excluded from public charging station maps.

**The motion, made by Commissioner Mohamed, carried by the following vote:**

**In favor: Calkins, Cho, Hasegawa, and Mohamed (4)**

**Opposed: (0)**

**9. UNFINISHED BUSINESS**

There was no unfinished business presented.

*(The regular meeting recessed at 12:43 p.m. and reconvened at 12:48 p.m.)*

**10. NEW BUSINESS**

**10a. Authorization for the Executive Director to Complete Design and Permitting to Replace the Existing Piers 1 and 2 of the Northwest Dock at Fishermen's Terminal in the Requested Amount of \$5,900,000, for a Total Preliminary Estimated Project Cost \$50,000,000 - \$70,000,000. (CIP #C800444).**

Requested document(s) included an agenda memorandum and presentation.

Presenter(s):

Delmas Whittaker, Chief Operating Officer, Marine Maintenance  
Mark Longridge, Capital Project Manager V, Waterfront Project Management

Clerk Hart read Item 10a into the record and Executive Director Metruck introduced the item.

The presentation addressed:

- project location, overview, and scope;
- current layout and condition of the piers;
- capital improvement plan status and plan certainty;
- project risks;
- preliminary schedule; and
- budget estimate.

Discussion ensued regarding:

- the amount of revenue, if any, generated through the piers;
- thousands of jobs supported by Fisherman's Terminal operations;
- communication with customers for placement at other docks while the work is being performed; and
- no reduction to overwater coverage.

**The motion, made by Commissioner Mohamed, carried by the following vote:**

**In favor: Calkins, Cho, Hasegawa, and Mohamed (4)**

**Opposed: (0)**

**11. PRESENTATIONS AND STAFF REPORTS**

**11a. Q2 2025 Financial Performance Briefing.**

Presentation document(s) included an agenda memorandum, report, and presentation.

Presenter(s):

Elizabeth Morrison, Interim Chief Financial Officer, Finance and Budget

Michael Tong, Director of Corporate Budget, Finance and Budget  
Hiedi Popochock, Director of Aviation Finance and Budget  
Kelly Zupan, Director of Seaport Finance and Budget

Clerk Hart read Item 11a into the record and Executive Director Metruck introduced the item.

The presentation addressed:

- key quarter highlights;
- Aviation Division;
  - passenger growth;
  - summary of operating expenses;
  - business and financial highlights;
  - debt service coverage ratio slightly lower than budget;
  - airport development fund balance;
  - 2025 capital spending forecast – 99 percent on target;
- Seaport;
  - key metrics year-to-date;
  - Seaport performance summary;
- Maritime Division;
  - 2025 financials – forecast and year-to-date;
  - Maritime capital – over budget, but below funding plan;
- Economic Development Division;
  - key variances between forecast and year-to-date budget;
  - department financials and business highlights;
- Central Services;
  - summary of operating expenses;
  - 2025 financial forecast summary; and
- Portwide;
  - financial summary year-to-date;
  - portwide capital spending.

Discussion ensued regarding:

- the capital spending forecast for the SEA Gateway project – less is being spent due to less contingency being spent, as well as experienced delays; and
- using Port cash flow to fund capital projects and having the ability to scale back capital projects in 2025 if needed to address unanticipated impacts.

## **12. QUESTIONS on REFERRAL to COMMITTEE and CLOSING COMMENTS**

Commissioner Calkins recognized Delmas Whittaker, Chief Operating Officer, Marine Maintenance, and team, and everyone who contributed to the great Seafair events this year.

Commissioner Cho opined that the Port should have a float in the Seafair Parade.

**13. ADJOURNMENT**

The meeting adjourned at 1:31 p.m.

Prepared:

Attest:

\_\_\_\_\_  
Michelle M. Hart, Commission Clerk

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Sam Cho, Commission Secretary

Minutes approved: September 9, 2025



**COMMISSION  
AGENDA MEMORANDUM  
FOR INFORMATION ONLY**

**Item No.** 8b  
**Date of Meeting** September 9, 2025

**DATE:** September 9, 2025  
**TO:** Stephen P. Metruck, Executive Director  
**FROM:** Karen R. Goon, Deputy Executive Director

**SUBJECT: Monthly Notification of Prior Executive Director Delegation Actions August 2025**

**APPROVAL SUMMARY**

Notification of the following Executive Director delegated approvals that occurred in August 2025.

<b>Category of Approval</b>	<b>Request#</b>	<b>Description of Approvals August 2023</b>	<b>Category Amount</b>
Projects & Associated Contracts	2219-2025	BRITE System Replacement	\$1,800,000.00
Projects & Associated Contracts	2194-2025	SBM Dock Fireline Connections	\$510,000.00
Projects & Associated Contracts	2120-2025	FT C15 HVAC Controls Replacement	\$550,000.00
Non-Project Procurement of Goods & Purchased Service Contracts, Other Contracts, & Tenant Reimbursement	2165-2025	Maritime Facilities Direct Digital Controls Replacement	\$800,000.00
Non-Project Procurement of Goods & Purchased Service Contracts, Other Contracts, & Tenant Reimbursement	2241-2025	Accela Building Permit System Contract Amendment	\$820,000.00
Non-Project Procurement of Goods & Purchased Service Contracts, Other Contracts, & Tenant Reimbursement	2181-2025	King County - World Cup Readiness & Playbook Partnership (Community Business Connector Program)	\$125,000.00

Non-Project Procurement of Goods & Purchased Service Contracts, Other Contracts, & Tenant Reimbursement	2230-2025	SEA Five-years Custodial Services Contract for Ground Transportation Lot at S. 160 <sup>th</sup> lot.	\$1,000,000.00
Non-Project Procurement of Goods & Purchased Service Contracts, Other Contracts, & Tenant Reimbursement	2155-2025	Equipment Rentals - Port Construction Services	\$750,000.00
Non-Project Procurement of Goods & Purchased Service Contracts, Other Contracts, & Tenant Reimbursement	2217-2025	Galls Uniform Contract	\$400,000.00
Non-Project Procurement of Goods & Purchased Service Contracts, Other Contracts, & Tenant Reimbursement	2169-2025	Agreement with WA Dept. of Ecology for 2025-26 Stewardship Program	\$499,000.00
Real Property Agreements	N/A	No Approvals in August	
Utilization of Port Crews	N/A	No Approvals in August	
Sale of Surplus Port Property	N/A	No Approvals in August	
<b>Total Value of Executive Director Approvals</b>			<b>\$7,254,000.00</b>

**TRANSPARENCY:**

In approving the delegations for the Executive Director, the Commission requested that staff ensure transparency as it is paramount moving forward. As a result, staff will make approvals visible to the public in two ways. First, these types of approvals will be made visible in public Commission meetings via monthly reporting similar to this one. This approval is both timed and designed to be visible in a similar manner to the monthly Claims and Obligations reporting. Second, staff will publish these delegations to the web by publishing them in a PeopleSoft formatted report on the Port website in the same manner that all procurements, contracts, and other opportunities are made available to public communities.

**BACKGROUND:**

On January 24, 2023, the Commission approved and adopted Resolution No. 3810 that repealed related prior resolutions and increased the previously delegated Commission authority to the Executive Director and provided clarity in process directives to port staff. The approval made the Delegation of Responsibility and Authority to the Executive Director (DORA) effective on April 3, 2023, and the approvals made by the Executive Director for the month of April are identified in the table above.

Meeting Date: September 9, 2025

The foundation for Resolution No. 3810 included significant data analysis, employee surveys, and internal audit recommendation. Resolution No. 3810 also aligns with the Port Century Agenda in that it helps make the Port a more effective public agency. Many considerations and checks and balances have been built into the associated processes of Executive Director approvals including a high bar of transparency.

Following significant analysis and multiple Commission reviews, the Commission approved the DORA on January 24, 2023. That reporting memo is available for review on the Port website under the January 24, 2023, Commission public meeting, and it provides detailed reasoning and explanation of Resolution No. 3810.



**ORDER NO. 2025-08**

**AN ORDER OF THE PORT OF SEATTLE COMMISSION**

... Reappointing a Member to the Port of Seattle  
Commission Board of Ethics for 2025 - 2028.

**PROPOSED  
SEPTEMBER 9, 2025**

**INTRODUCTION**

The Port Commission, in May 2022, went through an extensive public recruitment process to interview prospective candidates for the Board of Ethics. At that time, Lindsay Pulsifer was appointed to the Board. Lindsay is experienced with Port operations, policies, and procedures, and has proven to be an invaluable asset to the Board and to the Commission during her first term. Lindsay has expressed her desire to serve an additional term.

**TEXT OF THE ORDER**

The Port Commission, in accordance with Resolution No. 3833, the Port of Seattle Commission Code of Ethics, hereby re-appoints Lindsay Pulsifer to serve a three-year term as a member on the Commission’s Board of Ethics effective September 13, 2025, and ending September 12, 2028.

**STATEMENT IN SUPPORT OF THE ORDER**

The Port of Seattle has established a strong and comprehensive ethics program for employees and Port Commissioners to foster high ethical standards, strengthen public trust and confidence in the Port of Seattle, and promote good governance. To further these goals, the Port of Seattle Commission adopted Resolution No. 3833, a revised code of ethics, in January 2025, incorporating provisions to further strengthen ethics requirements for the Commission.

The Port of Seattle Commission Code of Ethics provides for the appointment of an Ethics Board composed of three members by majority vote of the Commission “to ensure proper and consistent implementation” of the Code. The Board serves as the formal mechanism to consider all complaints against Port Commissioners and acts as an advisory body to provide guidance on ethical matters to the Port Commission or individual Commissioners upon request.

43 Lindsay Pulsifer is a highly qualified candidate who comes to the Port with prior knowledge and  
44 experience in Port operations. Lindsay’s areas of expertise are in business administration and  
45 leadership. Among other awards for her efforts, Lindsay is the recipient of the “Award for  
46 Distinguished Performance in Diversity, Environmental Practices, Safety, Labor Relations and  
47 Maintenance,” from the Port of Seattle and is an awardee of the ‘Charles Blood Champion of  
48 Diversity Award.’ She is also the namesake of the Lindsay Pulsifer Community Champion Award  
49 for outstanding service to the local community. Lindsay has a long-established reputation of  
50 community engagement and practicing ethics in her areas of work and study. She brings a depth  
51 of knowledge and experience with her in service to the Port of Seattle Commission’s Board of  
52 Ethics that will complement and enhance the expertise and current composition of the Board.

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**COMMISSION**

**AGENDA MEMORANDUM**

**Item No.**

8d

**ACTION ITEM**

**Date of Meeting**

September 9, 2025

**DATE:** September 9, 2025

**TO:** Stephen P. Metruck, Executive Director

**FROM:** Karin Zaugg Black, Manager, International Relations and Protocol  
LeeAnne Schirato, Commission Deputy Chief of Staff  
Aaron Pritchard, Commission Chief of Staff

**SUBJECT: Approval of Commission International Travel – Fourth Quarter 2025**

**ACTION REQUESTED**

Commission approval of international travel requests for known travel in the fourth quarter of 2025.

**EXECUTIVE SUMMARY**

*Article III(5)(h) of the Commission’s Bylaws and Rules of Procedure requires approval of Commissioner international travel requests by Commission authorization. The authorization shall include: the number of commissioners traveling (if applicable), the port-related reason for travel, and the dates and destination of travel. International travel requests shall be submitted to the Commission Office 21 days in advance of each calendar quarter. Travel change requests for previously approved international travel shall again be put before the full Commission for review and action. Commissioners not receiving advanced travel authorization for international travel shall report to the Commission regarding the purpose of their travel, dates of travel, location of travel, benefit received by the Port through the travel, and shall seek majority approval of the post-travel authorization in order to submit claims for travel expense reimbursement. Travel requests of Commissioners should be equitable to all members and consistent with the interests of the Port. Domestic travel requests are approved by the Commission President consistent with the requirements of Article III(5)(h).*

The following are known travel requests for approval as of this authorization date:

Meeting Date: September 9, 2025

Travel Dates	No. of Attendees	Reason for Travel	Destination	Other Information
October 6-8, 2025	1	The American Association of Port Authorities (AAPA) Annual Convention	Quebec City, Canada	Commissioner Felleman will participate in the AAPA Annual Convention in Quebec City, Canada. The AAPA Annual Convention brings together industry leaders, innovators, and stakeholders from across the maritime, logistics, and supply chain sectors, and creates a premier forum for addressing the challenges and opportunities shaping the future of ports and supply chains. Topics include: Decarbonization and Sustainability, Infrastructure Development, Digital Transformation, and Resilient Supply Chains.
October 6-9, 2025	2	International Association of Ports and Harbors (IAPH) World Port Conference	Kobe, Japan	Commissioners Hasegawa and Cho will attend the International Association of Ports and Harbors (IAPH) World Port Conference in Kobe, Japan for the 70 <sup>th</sup> anniversary of the founding of IAPH in our sister port of Kobe. This international gathering of key ports around the world allows Port of Seattle to learn from and share best practices with key port partners, such as Rotterdam, Netherlands; Singapore; Busan, South Korea; and Kobe, Japan. Seminar topics cover a wide range, such as climate resilience, multi-fuel bunkering, cyber resilience, trade tariffs, energy hubs, and re-imagining urban waterfronts.

Meeting Date: September 9, 2025

November 8-15, 2025	1	2025 Young Leaders Conference hosted by The American Swiss Foundation	Geneva, Switzerland	2025 Young Leaders Conference hosted by The American Swiss Foundation. The Young Leaders Conference brings together 25 prominent young Americans with an equal number of Swiss leaders for a week of intensive discussions on a broad range of issues of concern to both countries.
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**ATTACHMENTS TO THIS REQUEST**

None.



**COMMISSION  
AGENDA MEMORANDUM**

**Item No.** 8e

**ACTION ITEM**

**Date of Meeting** September 9, 2025

**DATE:** September 3, 2025

**TO:** Stephen P. Metruck, Executive Director

**FROM:** Greg Gauthier, Labor Relations Manager

**SUBJECT: Port of Seattle – Laborers Local Union 242 affiliated with the Seattle Building Trades Memorandum of Understanding Re: Washington Protected Sick Leave for Emergency Hires, Limited Duration Employees, and Apprentices**

**ACTION REQUESTED**

Request Commission authorization for the Executive Director to enter into an MOU with Laborers Local Union 242 affiliated with the Seattle Building Trades, allowing the Port to contribute a 2.5% PTO benefit for Emergency Hires, Limited Duration Employees, and Apprentices, as opposed to maintaining and managing the Washington Protected Sick Leave contributions on behalf of those employees. The MOU includes language indemnifying the Port relative to obligations associated with managing and maintaining Washington Protected Sick Leave contributions on behalf of those employees.

**EXECUTIVE SUMMARY**

The Port of Seattle and the Laborers Union Local 242 affiliated with the Seattle Building Trades, representing 119 Laborers at the Port of Seattle are parties to a Maintenance Agreement Addendum (MAA) expiring on December 31, 2028; 13 of the 119 Laborers are designated as either Emergency Hires, Limited Duration Employees, or Apprentices.

According to the MAA, Emergency Hires, Limited Duration Employees and Apprentices are entitled to accrue and utilize Washington Protected Sick Leave in accordance with the minimum requirements of the Washington Paid Sick Leave Law, (a rate of one hour of paid sick leave for every 40 hours worked or 2.5% of hours worked). Currently, the Port maintains and manages those accruals.

Recently, the construction rates negotiated between the Laborers Local 242 and their construction contractors, include a new 2.5% PTO benefit contribution made by employers that corresponds with the employer’s obligations under the Washington Protected Sick Leave Law. The contractors now make those contributions on their employees’ behalf into a trust managed system that employees can track and utilize.

Meeting Date: September 9, 2025

Moving forward, the parties have agreed that instead of the Port maintaining and managing the minimum requirements under the Washington Protected Sick Leave Law on behalf of Emergency Hires, Limited Duration Employees, and Apprentices, the Port will submit those contributions to the designated union trust administered account for those employees.

**JUSTIFICATION**

RCW Chapter 41.56 requires the Port of Seattle to collectively bargaining wages, hours and conditions of employment with the exclusive bargaining representative designated by the employees.

**DETAILS**

Effective, the first day of the first payroll period after the execution of the MOU, the Port will contribute 2.5% into the union trust administered account on behalf of each Emergency Hire, Limited Duration Employee, and Apprentice.

**ATTACHMENTS TO THIS REQUEST**

- (1) Memorandum of Understanding

**PREVIOUS COMMISSION ACTIONS OR BRIEFINGS**

August 13, 2024, Item 8h: New collective bargaining agreement between the Port of Seattle and the Seattle Building Trades Council on behalf of affiliated local unions.

**MEMORANDUM OF UNDERSTANDING**  
by and between  
**PORT OF SEATTLE**  
And  
**LABORERS LOCAL UNION 242**

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**Washington Protected Sick Leave for Emergency Hires, Limited Duration Employees, and Apprentices**

WHEREAS, the Parties are signatory to a Maintenance Agreement Addendum (MAA) covering employees at the Port of Seattle that are represented by Unions that are affiliated with the Seattle Building Trades working at the Port of Seattle;

WHEREAS, Article 4 of the MAA allows the Port of Seattle and individual unions to execute separate special agreements that may supplement the MAA;

WHEREAS, Article 17.K. of MAA, states that Emergency Hires, Limited Duration Employees, and Apprentices shall be entitled to accrue Washington Protected Sick Leave in accordance with the minimum requirements of the Washington Paid Sick Leave Law;

WHEREAS, as of June 1, 2024, the Area Master Labor Agreement between the LABORERS LOCAL 242 and the Associated General Contractors (AGC), Washington Chapter, includes a new 2.5% PTO benefit contribution, managed through the Union, that is intended to meet the employer's obligations under RCW 49.46.180 through RCW 49.46.210 and WAC 296.128.620 et seq.;

WHEREAS, the Parties have agreed that the new 2.5% PTO benefit is only intended to be applied, prospectively, beginning on the first day of the first payroll period after the execution of this MOU, to Emergency Hires, Limited Duration Employees, and Apprentices;

WHEREAS, it was not the intent of the Parties that the employer contribute to both the new PTO benefit and a separate Washington Paid Sick Leave bank accrual, now,

THEREFORE, the Parties hereby agree to the following:

- Effective, the first day of the next payroll period after the execution of this document, the Parties agree that the Port's contribution of 2.5%, PTO, as per the attached 2022-2025 Wage & Fringe Summary, will satisfy the employer's total obligation associated with Article 17.K of the MAA;
- The Union agrees to protect, defend, hold harmless, and indemnify (collectively "Indemnify" and "Indemnification") the Port of Seattle, its subsidiaries, and its and their respective successors, assigns, commissioners, directors, officers, employees, agents, and affiliates (collectively, "Indemnified Parties") from and against all claims, demands, actions, suits, damages, liabilities, losses, settlements, judgments, costs, and expenses of or by an employee, former employee, Washington State Department of Labor and Industries, or a third party, including but not limited to reasonable attorneys' fees and costs (collectively, "Claims"), actually or allegedly, directly or indirectly, arising out of or related to (1) any breach of any duty (including contractual duty), representation or warranty of Union to properly and legally administer a Washington

State Paid Sick Leave program that is fully compliant with applicable statutes and regulations; (2) any breach or violation of any covenant or other obligation or duty of Union under the applicable Agreement or under applicable law as it applies to the Port of Seattle as the employer; and (3) any third party Claims which arise out of, relate to or result from any act or omission of Union; and, in each case whether or not caused in whole or in part by the negligence of the Union, or any other Indemnified Party, and whether or not the relevant Claim has merit.

This Memorandum of Understanding is effective upon signing and shall expire when incorporated into a successor MAA between the Parties.

**UNION**



Dale Cannon  
Secretary/Treasurer  
Business Manager  
Local 242

7-30-25

Date



Monty Anderson  
Executive Secretary  
Seattle Building and Construction Trades Council

**FOR THE PORT OF SEATTLE**

Stephen P. Metruck  
Executive Director  
Port of Seattle

Date

07-30-25

Date



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**ORDER NO. 2025-09**

**AN ORDER OF THE PORT OF SEATTLE COMMISSION**

... to rename the South King County Community Impact Fund as the South King and Port Communities Fund.

**PROPOSED  
SEPTEMBER 9, 2025**

**INTRODUCTION**

In October 2024, the Commission authorized the Executive Director to Execute agreements for the continuation of the South King County Community Impact Fund (SKCCIF) Environmental and Economic Opportunities for Communities programs for the next five years 2025-2029. This delegation of authority directed the Port of Seattle to contract up to a total of \$14 million to community-based organizations, refocus the Economic Recovery to Economic Opportunities for Communities program, expand the geographic region of funding to areas in King County that are identified by the Equity Index as having the greatest needs, and identifying ways to continue funding programs in the six near-airport cities that have been prioritized as part of the first iteration of the SKCCIF.

This Order directs the Executive Director to rename the program to reflect the expanded geographic reach that includes both South King County and other areas of King County that are identified by the Equity Index as having the greatest need for economic development and environmental improvement funding.

In a separate Commission action, on July 27, 2021, Commission approved the execution of SKCCIF contracts contingent upon the provision of notification of recommended projects to Commissioners at least 14 days in advance of contract execution. Commission authorizes the Executive Director to change the notification of recommended projects to Commissioners from at least 14 days to 7 days in advance to contract execution. This change is proposed to improve and accelerate the contract execution timeline with community partners and to create efficiencies in our current standard operating procedures.

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**TEXT OF THE ORDER**

The Port Commission hereby directs the Executive Director to rename the South King County Community Impact Fund. The South King County Community Impact Fund will be renamed the “South King and Port Communities Fund.”

**STATEMENT IN SUPPORT OF THE ORDER**

Commission Order 2021-12 authorized the Executive Director to conduct an evaluation and develop recommendations for the future re-authorization of the program before the end of the initial five-year period. This evaluation highlights the impact of the SKCCIF, reflecting the positive economic and environmental outcomes of the Port’s financial investments in communities in South King County.

From 2020-2024, the SKCCIF procured four funding cycles to contract with community-based non-profit organizations. A total of \$9.25 million has been committed to a total of 52 community-based organizations.

Given the success of the program and needs of the communities the Port serves, the Commission approved the reauthorization of the fund and:

- To contract with community-based organizations for a total of \$14 million during the next five years (2025-2029);
- To refocus the Economic Recovery Program to fund projects that advance economic opportunity instead of projects focused on recovering from the impact of the pandemic. Recovery from the pandemic is no longer applicable, and communities are in need of ways to expand and advance economic stability and opportunity. In refocusing this program, we would rebrand as “Economic Opportunities for Communities;”
- To expand the geographical region of where we fund to areas of King County that are identified by the Equity Index as having the greatest need; and,
- To continue funding programs in the six near-airport cities and to identify how applications focused on programs in those cities will receive priority status.

**ADDITIONAL INFORMATION ATTACHED**

**PREVIOUS COMMISSION ACTIONS OR BRIEFINGS**

- 1) October 22, 2024 – Commission Reauthorization Order for the South King County Community Impact Fund
- 2) October 8, 2024 – Commission Briefing on South King County Fund Assessment and Recommended Next Steps
- 3) October 10, 2023 – Commission briefing on South King County Fund

- 82 4) September 13, 2022 – Authorization of South King County Fund Cycle 3  
83  
84 5) July 27, 2021 – The Commission authorized \$2 million for the South King County Fund  
85 for 2021.  
86  
87 6) April 28, 2020 – The Commission approved Motion 2020-10 to add economic development  
88 to the permissible uses for the South King County Fund, in support of local recovery from  
89 the COVID-19 pandemic.  
90  
91 7) June 25, 2019 – The Commission approved Motion 2019-10, adopting principals to guide  
92 outreach and development of the South King County Fund policy.  
93  
94 8) November 27, 2018 – The Commission approved Motion 2018-14, establishing the South  
95 King County Fund.



**COMMISSION  
AGENDA MEMORANDUM**

**Item No.** 8g

**ACTION ITEM**

**Date of Meeting** September 9, 2025

**DATE:** August 19, 2025

**TO:** Stephen P. Metruck, Executive Director

**FROM:** Greg Gauthier, Labor Relations Manager

**SUBJECT: Memorandum of Understanding between the Port and the Seattle/King County Building and Construction Trades Council regarding Fleet Telematics and Cameras**

**ACTION REQUESTED**

Request Commission authorization for the Executive Director to enter into a Memorandum of Understanding (MOU) with the Seattle Building Trades, allowing the Port to install and utilize fleet vehicle telematics and vehicle cameras in Port vehicles operated by represented members of the SBT in accordance with the terms negotiated.

**EXECUTIVE SUMMARY**

The Seattle/King County Building and Construction Trades Council (SBT) represents the employees of eight trade groups working at the Port in Aviation, Marine Maintenance, and Port Construction Services.

Earlier this year the SBT was notified that the Port planned on installing and managing telematics systems, along with outward facing, non-audio recording, video cameras on all Port owned, fleet vehicles in an effort to provide information to improve overall fleet asset health, driver safety, improved maintenance data, and improved performance of Port assets.

Upon receiving notification, the SBT informed the Port that it wished to negotiate terms regarding the implementation of both the telematics and vehicle camera systems within fleet vehicles that are operated by their members. This MOU is the product of good faith bargaining between the parties.

**JUSTIFICATION**

RCW Chapter 41.56 requires the Port of Seattle to collectively bargaining wages, hours and conditions of employment with the exclusive bargaining representative designated by the employees.

Meeting Date: September 9, 2025

**DETAILS**

Upon the execution of this MOU the fleet management team, in both the Marine and Aviation Maintenance departments, will proceed to install and/or activate telematics and video equipment in Port fleet vehicles.

**ATTACHMENTS TO THIS REQUEST**

- (1) Memorandum of Understanding

## MEMORANDUM OF UNDERSTANDING

Between the  
PORT OF SEATTLE  
And the  
SEATTLE BUILDING AND  
CONSTRUCTION TRADES COUNCIL  
and its  
AFFILIATED LOCALS  
MAINTENANCE AGREEMENT ADDENDUM

---

### **Fleet Telematics and Front Facing Cameras without Audio (Telematics/Vehicle Cameras)**

The Port of Seattle (“the Port”) and the Seattle/King County Building and Construction Trades Council (“the Council”) agree to the following:

- A. Telematics/Vehicle Cameras are fleet management technology systems that provide the Port’s fleet and Risk management teams with information and data in real time, and recorded, relative to the status, condition, use, and location of the vehicles to which it is installed. Vehicle cameras shall be outward facing only, with no audio or camera recording of the cabin of the vehicle.
- B. Telematics/Vehicle Cameras are intended to provide the Port of Seattle with the tools necessary to achieve the following objectives:
  - Reductions in carbon emissions
  - Reductions in fuel costs
  - Reductions in maintenance events
  - Streamlining maintenance
  - Strategic vehicle/asset dispatching
  - Improved customer service
  - Improvements in both vehicle maintenance compliance and safety
  - Analyzing citizen complaints
  - Locating assets
- C. The Port will not randomly or routinely review in real time the telematics/vehicle camera data solely for disciplinary purposes, or as part of targeted surveillance for “fishing.” The Port will not review the vehicle camera data in real time.
- D. Telematics/vehicle camera data relative to an investigation/complaint involving an employee shall be made available to the Union upon request in accordance with the terms and conditions of the CBA and/or all relevant laws and/or statutes. Any information gleaned from telematics/vehicle camera data used to support the Port’s position relative to a disciplinary action and/or actions shall only be used in accordance with the CBA.

E. The vehicle cameras will not face inward and will not record pickup audio. However, if the Port determines that it desires the vehicle cameras to face inward into the vehicle cabin, and/or to record/pick up audio, the parties shall meet to bargain the respective decision and/or decisions.

F. The parties agree to review the status of the program annually, at the first LMC meeting of each year of the current contract, and upon request by either party. This MOU shall expire at the end of the contract period, December 31, 2028, unless mutually extended by the Parties.

**FOR THE TRADES COUNCIL:**

**FOR THE PORT OF SEATTLE:**

  
\_\_\_\_\_  
Monty Anderson, Executive Secretary,  
Seattle Building and Construction  
Trades Council

\_\_\_\_\_  
Stephen P. Metruck  
Executive Director

  
\_\_\_\_\_  
Date

\_\_\_\_\_  
Date



**COMMISSION  
AGENDA MEMORANDUM**

**Item No.** 8h

**ACTION ITEM**

**Date of Meeting** September 9, 2025

**DATE :** August 26, 2025

**TO:** Stephen P. Metruck, Executive Director

**FROM:** Sarah Ogier, Director-Maritime Environment & Sustainability

Joanna Florer, Sr. Manager, Environmental Programs

Brick Spangler, Sr. Program Manager, Maritime Environment & Sustainability

**SUBJECT:** **East Waterway Remedial Design Order and Memorandum of Agreement with City of Seattle and King County**

**Amount of this request:** \$0

**Source of Funds:** ERL Non Ops

**Total estimated project cost:** \$30,000,000

**ACTION REQUESTED**

Request Commission authorization for the Executive Director to (1) sign and execute an EPA Administrative Settlement Agreement and Order on Consent requiring the Port of Seattle, City of Seattle, and King County to perform remedial design for the East Waterway Operable Unit of the Harbor Island Superfund Site; and (2) to sign a Potential Responsible Party (PRP) Cost Sharing Agreement between the Port of Seattle, City of Seattle, and King County to share the costs to perform the scope of work required by EPA’s Order including EPA oversight costs.

**EXECUTIVE SUMMARY**

Sediment in the East Waterway contain contaminants that include polychlorinated biphenyls (PCBs), arsenic, dioxins/furans and carcinogenic polycyclic aromatic hydrocarbons (cPAHs) that pose risk to human health and the environment and need to be addressed. The East Waterway Group (EWG), comprising the Port of Seattle, the City of Seattle, and King County, completed the investigation and feasibility study phases of the cleanup of the East Waterway Superfund Site. The Port led the previous work under a legal agreement with the EPA, supported by the City of Seattle and King County through a Memorandum of Agreement (MOA) that has been in place since 2006.

Meeting Date: September 9, 2025

The EWG reached an agreement with EPA on an Order to develop the remedial design for the cleanup. Under a new cost sharing MOA, the three EWG parties will share responsibility to implement the required work. The Port will procure an environmental consulting firm to perform the work, with costs reimbursed by the City and County on a preliminary (subject to reallocation) basis of 1/3 each. The remedial design work is estimated to cost a total of approximately \$30 million. Funding for this work was included in the 2025-2029 Environmental Remediation Liability (ERL) Program. The request for procurement of a consultant will be completed under a separate commission request.

#### BACKGROUND

The Harbor Island Superfund Site is one of the first Superfund sites in the country, listed on the National Priorities List in 1983. Harbor Island is a human-built, industrial island in Elliott Bay. Built in the early 1900s, the 420-acre island supports businesses that conduct commercial and industrial activities, including a former lead battery recycler, ocean and rail transport operations and petroleum fuel farm storage and operation. Prior operations at the site resulted in contaminated groundwater, sediment and soil with lead and other contaminants. The EPA divided the Harbor Island site into six smaller areas, known as “Operable Units” (OUs) to better address site cleanup. Cleanups have been completed at five of the OUs, and the remaining OU for cleanup is the East Waterway. The East Waterway cleanup area stretches one mile and covers 157 acres. It is located downstream and north of the Lower Duwamish Waterway Superfund Site, along the east side of Harbor Island.

The East Waterway is proposed for cleanup due to unacceptable risks to human health and to the environment. Sediments at the bottom of the waterway contain contaminants that include polychlorinated biphenyls (PCBs), arsenic, dioxins/furans and carcinogenic polycyclic aromatic hydrocarbons (cPAHs) that pose risk to human health. There are 29 contaminants, including PCBs and mercury, which pose risks for benthic invertebrates that are the base of the food chain. PCBs also pose risk to fish within the waterway. The EPA released its Interim Record of Decision (ROD) for cleanup of the East Waterway in 2024. The next step to implement the Interim ROD is Remedial Design.

The EPA oversees the East Waterway cleanup. The EWG, comprising the Port of Seattle, the City of Seattle, and King County, completed the investigation and feasibility study phase of the cleanup of the East Waterway operable unit of the Harbor Island Superfund Site. The Port led the investigation work under a legal agreement with the EPA, supported by the City of Seattle and King County through a MOA that has been in place since 2006.

The EWG has reached agreement with EPA on an Order to develop the remedial design for the cleanup. Under a new cost sharing MOA, the three EWG parties will share responsibility to implement the required work. The Port will procure an environmental consulting firm to perform the work, with costs reimbursed by the City and County on a preliminary (subject to potential reallocation) basis of 1/3 each. The Port will hold the contract with the consultant and all

Meeting Date: September 9, 2025

invoicing will be handled by the Port with appropriate portions reimbursed by the City and County.

Total cleanup cost estimates were developed for each cleanup alternative as part of the East Waterway Feasibility Study completed in 2019. In 2023, the EWG updated the cleanup cost based on the EPA’s preferred alternative and updated market pricing for a total of \$419,000,000. Of that total, \$30,000,000 is estimated for Remedial Design, baseline monitoring, project management and EPA oversight effort to be completed under the proposed Order.

Funding for this work was included in the 2025-2029 Environmental Remediation Liability (ERL) Program, therefore funding is not requested at this time.

The request for procurement of a consultant will be completed under a separate commission request.

**JUSTIFICATION**

The EPA Order is a binding agreement to perform work by the Port; therefore, the signing of the EPA Order requires Commission authorization. The project will formally initiate the process of remedial design for the East Waterway, as necessary and required, to meet EPA’s cleanup objectives in its interim Record of Decision. The MOA will permit the EWG parties to share the costs of the required work and obligates the Port to fulfill EPA’s financial assurance requirements for the work.

**DETAILS**

The Statement of Work detailed in the Order requires that the Port, City, and County perform the work necessary to complete Remedial Design. A request to procure and execute a joint, project-specific, professional environmental consulting contract to complete the tasks identified in the order will be presented separately and is anticipated at the October 14, 2025, Port Commission meeting.

***Schedule***

The preliminary East Waterway Cleanup project schedule milestones are as follows:

<i>Activity</i>	<i>Estimated Schedule</i>
Commission Authorization of Order	Q3 – 2025
Consultant designer procurement	Q1 2026
Remedial Design	2026-2031

**ALTERNATIVES AND IMPLICATIONS CONSIDERED**

**Alternative 1 – Do Not Authorize Signature of the Order**

Cost Implications: Not signing the Order may result in the issuance of an enforcement order by EPA, or EPA may elect to perform this work itself. This would result in EPA recovering the cost of the work from the Port, increasing the Port’s estimated costs by 1.5 to 3 times.

Pros:

- (1) May delay the Port’s spending by a year or more while EPA prepares the enforcement order.

Cons:

- (1) Increased legal and staff time and efforts and costs to respond to an enforcement order and provide ancillary support to the EPA to carry out the enforcement order (gain access to the site, etc.)
- (2) The ultimate costs of the work will be much higher if EPA elects to perform the work itself.
- (3) Not performing this work could tarnish the Port’s reputation with EPA and the community as having a commitment to public health and being a steward of community resources and the environment.

*This is not the recommended alternative.*

**Alternative 2 – Authorize the Signing of the Order and begin the required Statement of Work**

Cost Implications: Likely \$30,000,000 costs shared with our partners.

Pros:

- (1) Avoids potential enforcement order and furthers the Port’s collaborative working relationship with EPA.
- (2) Takes the next step leading to East Waterway cleanup and long-term protection of human health and the environment.
- (3) Demonstrates the Port’s value of being responsible stewards of community resources and the environment.

Cons:

- (1) None, but will cost approximately \$30,000,000 to complete the Order’s Statement of Work, shared equally among the Port, City, and County.

*This is the recommended alternative.*

**FINANCIAL IMPLICATIONS**

There is no funding request as part of this authorization. Funding for the associated scope of work and costs is included in the annual Environmental Remedial Liability (ERL) authorization. Project costs will be shared by the Port, City, County, subject to reallocation after the Remedial Design is complete. As the contracting party, the Port will pay all costs upfront, and the City and

Meeting Date: September 9, 2025

County will reimburse the Port for their respective shares. The Port will pursue future options to recover its costs from other parties.

**ATTACHMENTS TO THIS REQUEST**

- (1) Administrative Settlement Agreement and Order on Consent for Remedial Design (East Waterway Operable Unit, Harbor Island Superfund Site, Seattle, WA)
- (2) Memorandum of Agreement Between the Port of Seattle, the City of Seattle and King County Regarding the East Waterway Operable Unit of the Harbor Island Superfund Site
- (3) Presentation

**PREVIOUS COMMISSION ACTIONS OR BRIEFINGS**

November 1, 2024 - The Commission authorized the Chief Executive Officer to (1) spend environmental remediation funds for 2025 in the amount of \$19,700,000 and (2) approve a five-year spending plan for \$211,000,000 for the environmental remediation liability program for 2025-2029, of which an estimated not-to-exceed amount of \$50,000,000 will be obligated during 2025 to be spent in future years.

July 25, 2006 – The Commission authorized the Chief Executive Officer to Execute the Administrative Settlement Agreement and Order on Consent for a Supplemental Remedial Investigation/Feasibility Study for the East Waterway Operable Unit of the Harbor Island Superfund Site issued by the United States Environmental Protection Agency.

March 14, 2006 – The Commission authorized the Chief Executive Officer to Execute a MOA between the Port and the City of Seattle and King County for the East Waterway Operable Unit of the Harbor Island Superfund Site Supplemental Remedial Investigation/Feasibility Study.

September 23, 2003 – The Commission issued project-wide authorization for the design, permitting, and construction required for the Port’s full compliance with Administrative Order on Consent for Removal Action issued by the United States Environmental Protection Agency in the matter of Harbor Island Superfund Site East Waterway Operable Unit, Phase 1 Remedial Design and Removal Action, and Phase 2 Remedial Design Activities for an estimated cost of \$19,400,000.

UNITED STATES  
ENVIRONMENTAL PROTECTION AGENCY  
REGION 10

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IN THE MATTER OF: )  
)  
East Waterway Operable Unit of )  
the Harbor Island Superfund Site )  
)  
Port of Seattle, City of Seattle, )  
and King County, )  
)  
Respondents )  
)  
Proceeding Under Sections 104, 107, and )  
122 of the Comprehensive, Environmental )  
Response, Compensation, and Liability Act, )  
42 U.S.C. §§ 9604, 9607 and 9622 )  

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CERCLA Docket No. 10-2025-0125

**ADMINISTRATIVE SETTLEMENT  
AGREEMENT AND ORDER ON  
CONSENT FOR REMEDIAL DESIGN**

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## **I. JURISDICTION AND GENERAL PROVISIONS**

1. This Administrative Settlement Agreement and Order on Consent (“Settlement”) is entered into voluntarily by the United States Environmental Protection Agency (EPA) and the Port of Seattle, City of Seattle, and King County (“Respondents”). This Settlement provides for the performance of a Remedial Design (RD) by Respondents and the payment of certain response costs incurred by the United States at or in connection with the East Waterway Operable Unit (“EWOU”) of the Harbor Island Superfund Site (the “Site”) located immediately to the southwest of the downtown area of Seattle, Washington, and generally depicted on the diagram which is Appendix A to this Settlement.

2. This Settlement is issued under the authority vested in the President of the United States by Sections 104, 107, and 122 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, (CERCLA), as amended. This authority was delegated to the EPA Administrator on January 23, 1987, by Executive Order 12580, 52 Fed. Reg. 2923 (Jan. 29, 1987), and further delegated to the EPA Regional Administrators by EPA Delegation Nos. 14-14C (Administrative Actions Through Consent Orders, Jan. 18, 2017) and 14-14D (Cost Recovery Non-Judicial Agreements and Administrative Consent Orders, Jan. 18, 2017). These authorities were further redelegated by the Regional Administrator of EPA Region 10 to the Branch Manager, Remedial Cleanup Branch by EPA Region 10 Delegations R10 14-14-C (July 30, 2024) and R10 14-14-D (July 30, 2024).

3. In accordance with Section 122(j)(1) of CERCLA, 42 U.S.C. § 9622(j)(1), EPA notified the National Oceanic and Atmospheric Administration, United States Fish and Wildlife Service, Suquamish Tribe, Muckleshoot Indian Tribe, and Yakama Nation of negotiations with potentially responsible parties regarding the release of hazardous substances that may have resulted in injury to the natural resources under federal trusteeship and encouraged these trustees to participate in the negotiation of this Settlement.

4. EPA and Respondents recognize that this Settlement has been negotiated in good faith and that the actions undertaken by Respondents in accordance with this Settlement do not constitute an admission of any liability. Respondents do not admit, and retain the right to controvert in any subsequent proceedings other than proceedings to implement or enforce this Settlement, the validity of the findings of facts, conclusions of law, and determinations in Sections IV (Findings of Fact) and V (Conclusions of Law and Determinations) of this Settlement. Respondents agree to comply with and be bound by the terms of this Settlement and further agree that they will not contest the basis or validity of this Settlement or its terms.

## **II. PARTIES BOUND**

5. This Settlement is binding upon EPA and upon Respondents and their successors, and assigns. Any change in ownership or corporate status of a Respondent including, but not limited to, any transfer of assets or real or personal property shall not alter such Respondent’s responsibilities under this Settlement.

6. Respondents are jointly and severally liable for carrying out all activities required by this Settlement. In the event of the insolvency or other failure of any Respondent to

implement the requirements of this Settlement, the remaining Respondents shall complete all such requirements.

7. Each undersigned representative of Respondents certifies that he or she is fully authorized to enter into the terms and conditions of this Settlement and to execute and legally bind Respondents to this Settlement.

8. Respondents shall provide a copy of this Settlement to each contractor hired to perform the Work required by this Settlement and to each person representing any Respondents with respect to the EWOU or the Work and shall condition all contracts entered into under this Settlement on performance of the Work in conformity with the terms of this Settlement. Respondents or their contractors shall provide written notice of the Settlement to all subcontractors hired to perform any portion of the Work required by this Settlement. Respondents shall nonetheless be responsible for ensuring that their contractors and subcontractors perform the Work in accordance with the terms of this Settlement.

### **III. DEFINITIONS**

9. Unless otherwise expressly provided in this Settlement, terms used in this Settlement that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Settlement or its attached appendices, the following definitions shall apply:

“Affected Property” shall mean all real property within the EWOU and any other real property where EPA determines, at any time, that access or land, water, or other resource use restrictions are needed to implement the RD.

“CERCLA” shall mean the Comprehensive Environmental Response, Compensation, and Liability Act, as amended.

“Day” or “day” shall mean a calendar day. In computing any period of time under this Settlement, where the last day would fall on a Saturday, Sunday, or federal or state holiday, the period shall run until the close of business of the next working day.

“Effective Date” shall mean the effective date of this Settlement as provided in Section XXVI.

“Ecology” shall mean the Washington State Department of Ecology and any of its successor departments or agencies of the State of Washington.

“EPA” shall mean the United States Environmental Protection Agency.

“EPA Hazardous Substance Superfund” shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

“EWOU” shall mean the East Waterway Operable Unit of the Harbor Island Superfund Site, encompassing approximately 157 acres of sediments below Mean Higher

High Water (MHHW), and extending for approximately 8,250 feet adjacent to the eastern side of Harbor Island in Seattle, Washington and depicted generally on the map attached as Appendix A. It does not include downstream or upstream areas (such as the Lower Duwamish Waterway Superfund Site), groundwater, or locations above MHHW.

“EWOU Special Account” shall mean the special account within the EPA Hazardous Substance Superfund, established for the Site by EPA pursuant to Section 122(b)(3) of CERCLA, 42 U.S.C. § 9622(b)(3), and a prior administrative settlement.

“Future Oversight Costs” shall mean that portion of Future Response Costs that EPA incurs in monitoring and supervising Respondents’ performance of the Work to determine whether such performance is consistent with the requirements of this Settlement, including costs incurred in reviewing deliverables submitted pursuant to this Settlement, as well as costs incurred in overseeing implementation of the Work; however, Future Oversight Costs do not include, *inter alia*: the costs incurred by EPA pursuant to Section VIII (Property Requirements), Paragraph 92 (Access to Financial Assurance), Paragraph 23 (Emergencies and Releases), and Paragraph 68 (Work Takeover), or the costs incurred by the United States in enforcing the terms of this Settlement, including all costs incurred in connection with Section XIII (Dispute Resolution) and all litigation costs.

“Future Response Costs” shall mean all costs, including, but not limited to, direct and indirect costs, that the United States incurs in reviewing or developing deliverables submitted pursuant to this Settlement, in overseeing implementation of the Work, or otherwise implementing, overseeing, or enforcing this Settlement, including but not limited to, payroll costs, contractor costs, travel costs, laboratory costs, the costs incurred pursuant to Section VIII (Property Requirements) (including, but not limited to, cost of attorney time and any monies paid to secure or enforce access, including, but not limited to, the amount of just compensation), Paragraph 68 (Work Takeover), Paragraph 23 (Emergencies and Releases), Paragraph 92 (Access to Financial Assurance), Paragraph 24 (Community Involvement, (including the costs of any technical assistance grant under Section 117(e) of CERCLA, 42 U.S.C. § 9617(e)), and the costs incurred by the United States in enforcing the terms of this Settlement, including all costs incurred in connection with Dispute Resolution pursuant to Section XIII (Dispute Resolution) and all litigation costs (except costs incurred by the United States as a result of its status as a potentially responsible party under CERCLA, as described in Paragraph 73. Future Response Costs shall also include all Interim Response Costs, and any Interest on Past Response Costs accrued due to late payment under Paragraph 43, and Agency for Toxic Substances and Disease Registry’s (ATSDR’s) CERCLA-recoverable costs regarding the EWOU.

“Interest” shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year. Rates are available online at <https://www.epa.gov/superfund/superfund-interest-rates>.

“Interim Record of Decision” or “IROD” shall mean the EPA Record of Decision relating to the EWOU signed on May 28, 2024 by the Principal Deputy Assistant Administrator in the Office of Land and Emergency Management, and all attachments thereto. The IROD is maintained in the file system of EPA.

“Interim Remedial Action” or “IRA” shall mean the interim remedial action selected in the IROD.

“Interim Response Costs” shall mean all costs, including, but not limited to, direct and indirect costs: (a) paid by the United States in connection with the EWOU between June 4, 2025, and the Effective Date, or (b) incurred prior to the Effective Date, but paid by the United States after that date.

“National Contingency Plan” or “NCP” shall mean the National Oil and Hazardous Substances Pollution Contingency Plan promulgated pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, codified at 40 C.F.R. Part 300, and any amendments thereto.

“Non-Settling Owner” shall mean any person, other than a Respondent, that owns or controls any Affected Property, including the State of Washington Department of Natural Resources. The clause “Non-Settling Owner’s Affected Property” means Affected Property owned or controlled by Non-Settling Owner.

“Owner Respondent” shall mean any Respondent that owns or controls any Affected Property. The clause “Owner Respondent’s Affected Property” means Affected Property owned or controlled by Owner Respondent.

“Paragraph” shall mean a portion of this Settlement identified by an Arabic numeral or an upper- or lower-case letter.

“Parties” shall mean EPA and Respondents.

“Past Response Costs” shall mean all costs, including, but not limited to, direct and indirect costs, that the United States paid at or in connection with the EWOU from September 30, 2019 through June 4, 2025.

“Performance Standards” or “PS” shall mean the sediment Remedial Action Levels (RALs), for contaminants of concern (COCs) as set forth in the IROD.

“RCRA” shall mean the Solid Waste Disposal Act, 42 U.S.C. §§ 6901-6992 (also known as the Resource Conservation and Recovery Act).

“Remedial Design” or “RD” shall mean those activities to be undertaken by Respondents to develop the final plans and specifications for the IRA as stated in the SOW.

“Respondents” shall mean the Port of Seattle, City of Seattle, and King County.

“Section” shall mean a portion of this Settlement identified by a Roman numeral.

“Settlement” shall mean this Administrative Settlement Agreement and Order on Consent and all appendices attached hereto (listed in Section XXIV (Integration/Appendices)). In the event of conflict between this Settlement and any appendix, this Settlement shall control.

“Statement of Work” or “SOW” shall mean the document describing the activities Respondents must perform to implement the RD, which is attached as Appendix B.

“Supervising Contractor” shall mean the principal contractor retained by Respondents to supervise and direct the implementation of the Work under this Settlement.

“Transfer” shall mean to sell, assign, convey, lease, mortgage, or grant a security interest in, or where used as a noun, a sale, assignment, conveyance, or other disposition of any interest by operation of law or otherwise.

“United States” shall mean the United States of America and each department, agency, and instrumentality of the United States, including EPA.

“Waste Material” shall mean (1) any “hazardous substance” under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (2) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); and (3) any “solid waste” under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27).

“Work” shall mean all activities and obligations Respondents are required to perform under this Settlement, except those required by Section X (Record Retention).

#### **IV. FINDINGS OF FACT**

10. Early industrial and commercial use of the EWOU was originally focused on the eastern shore and consisted of fish processing facilities, shipyards, and facilities with flour mills, grain elevators, lumber yards, and cold storage. Wharves constructed on creosoted piles were built in the early 1900s along both sides of the EWOU. The United States has also used the EWOU for military and industrial purposes, including but not limited to the Naval Industrial Reserve Shipyard. Commercial and industrial use occurred adjacent to or in the EWOU, including oil terminals (constructed in 1929), shipyards, rail transfer terminals, lead smelter, cold storage, lumber yards, and sand and gravel transfer stations. Sewage and stormwater have been discharged to the EWW for many years. Beginning in or around 1958, the Municipality of Metropolitan Seattle (Metro) formed to address regional wastewater and by 1969, Metro was directing combined sewage from this area to the treatment plant at West Point.

11. By 1919, the EWOU was an authorized Federal navigation channel. Dredging in the EWOU has been conducted to maintain and deepen existing berths and to deepen part of the Federal navigation channel. As of 2018, the northern portion of EWOU has an authorized depth of -57 feet mean lower low water (MLLW) and the southern portion is -34 feet MLLW. The main channel has been dredged at least 13 times since 1960 to maintain the authorized depth.

12. As a result of releases and threatened releases of hazardous substances, pollutants, or contaminants to soil and sediment, and potential routes of human and environmental exposure

to that contamination, EPA placed the Harbor Island Superfund Site on the National Priorities List in September of 1983.

13. The Port of Seattle performed a removal action for the EWOU in 2004-2005 under EPA oversight and direction pursuant to an Administrative Order on Consent in CERCLA Docket No. 10-2003-0166. The removal action was undertaken in a 20-acre area of the middle to south portion of the EWOU and consisted of the dredging and offsite disposal of approximately 273,300 cubic yards of contaminated sediments followed by placement of sand or gravel as a cover for the dredged area.

14. EPA completed an initial remedial investigation for the Harbor Island Superfund Site in 1993. That remedial investigation focused primarily on the upland area of the Harbor Island Superfund Site. In 2006, additional work began to specifically characterize the EWOU. An Administrative Settlement Agreement and Order on Consent (ASAOC) for performance of a supplemental remedial investigation (SRI) and feasibility Study (FS) exclusively for the EWOU was entered into between EPA and the Port of Seattle on October 20, 2006, in CERCLA Docket No. 10-2007-0030. Under the oversight of EPA and with funding assistance provided by the City of Seattle and King County, the SRI was completed in 2014 and the FS in 2019, however, EPA then determined further work was necessary to complete the SRI/FS for the EWOU and some of that work is still ongoing. The nature and extent of contamination in the EWOU are detailed in the SRI and alternatives for addressing that contamination are set forth and compared in the FS.

15. The data and other information developed in the SRI and other investigations shows there to be contamination of sediments, surface water, fish, and invertebrates in the EWOU. This contamination includes, but is not limited to, polychlorinated biphenyls (PCBs), carcinogenic polycyclic aromatic hydrocarbons (cPAHs), dioxins/furans, arsenic, tributyltin, metals, and other organic compounds. An assessment of exposure routes to this contamination was undertaken as part of the SRI and shows there to be potentially unacceptable risks to human health and the environment.

16. EPA prepared a proposed plan in 2023 which summarized data and other information about the nature and extent of contamination in the EWOU and compared the remedial action alternatives developed for addressing that contamination. After providing an opportunity for public, tribal, and state comment on the proposed plan, EPA issued an Interim Record of Decision (IROD) for the EWOU in May of 2024. In the IROD, EPA responded to the comments received on the proposed plan and set forth the selected remedial action for the EWOU.

17. The remedial action is to address approximately 121 acres of contaminated sediments and will include the dredging of 99 acres or approximately 940,000 cubic yards of contaminated sediments and the offsite disposal of those sediments. There is also to be capping of seven acres of contaminated sediments, in-situ treatment of 12 acres of contaminated sediments located under docks and piers, and 3 acres of enhanced natural recovery of contaminated sediments. In addition, 36 acres of contaminated sediments will be subject to monitored natural attenuation and a residual management layer will be applied to dredged areas and adjacent locations. Further, institutional controls will be established to limit exposures to remaining contamination and protect the integrity of the remedial action, and short-term

monitoring will be undertaken following implementation of the remedial action to assess the success of the work.

18. Respondents each have responsibility or control over areas or conduits which may have contributed contamination to the EWOU.

## **V. CONCLUSIONS OF LAW AND DETERMINATIONS**

19. Based on the Findings of Fact set forth above and the administrative record, EPA has determined that:

- a. The EWOU is a “facility” as defined by Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).
- b. The contamination found at the EWOU, as identified in the Findings of Fact above, includes hazardous substances, pollutants, or contaminants as defined by Sections 101(14) and (33) of CERCLA, 42 U.S.C. §§ 9601(14) & (33).
- c. Respondents are each a “person” as defined by Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).
- d. Respondents are each a responsible party under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).
- e. The conditions described in the Findings of Fact constitute an actual or threatened “release” of a hazardous substance, pollutant, or contaminant from the facility as defined by Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).
- f. The RD required by this Settlement is necessary to protect the public health, welfare, or the environment and, if carried out in compliance with the terms of this Settlement, will be consistent with the NCP, as provided in Section 300.700(c)(3)(ii) of the NCP.

## **VI. SETTLEMENT AGREEMENT AND ORDER**

20. Based upon the Findings of Fact, Conclusions of Law, and Determinations set forth above, and the administrative record, it is hereby Ordered and Agreed that Respondents shall comply with all provisions of this Settlement, including, but not limited to, all appendices to this Settlement and all documents incorporated by reference into this Settlement.

## **VII. PERFORMANCE OF THE WORK**

### **21. Coordination and Supervision**

#### **a. Project Coordinators.**

- (1) Respondents’ Project Coordinator must have sufficient technical expertise to coordinate the Work. Respondents’ Project Coordinator may not be

an attorney representing any Respondent in this matter and may not act as the Supervising Contractor. Respondents' Project Coordinator may assign other representatives, including other contractors, to assist in coordinating the Work.

(2) EPA has designated Ravi Sanga as On-Scene Coordinator/Remedial Project Manager (OSC/RPM). EPA may designate other representatives, which may include its employees, contractors and/or consultants, to oversee the Work. EPA's OSC/RPM will have the authority to oversee and direct the Work as well as other authorities described in the NCP. This includes the authority to halt the Work and/or to conduct or direct any necessary response action when the OSC/RPM determines that conditions at the EWOU constitute an emergency or may present an immediate threat to public health or welfare or the environment due to a release or threatened release of Waste Material. All deliverables, notices, notifications, proposals, reports, and requests specified in this Settlement must be in writing, unless otherwise specified, and be submitted by email to the OSC/RPM, Ravi Sanga, at [sanga.ravi@epa.gov](mailto:sanga.ravi@epa.gov).

(3) Respondents' Project Coordinators shall meet with the OSC/RPM at least monthly or as may otherwise be agreed to or approved by the OSC/RPM.

b. **Supervising Contractor.** Respondents' proposed Supervising Contractor must have sufficient technical expertise to supervise the Work and a quality assurance system that complies with ASQ/ANSI E4:2014, "Quality management systems for environmental information and technology programs - Requirements with guidance for use" (American Society for Quality, February 2014).

c. **Procedures for Disapproval/Notice to Proceed**

(1) Respondents shall designate, and notify EPA, within 14 days after the Effective Date, of the name[s], title[s], contact information, and qualifications of Respondents' proposed Project Coordinator and Supervising Contractor, whose qualifications shall be subject to EPA's review for verification based on objective assessment criteria (*e.g.*, experience, capacity, technical expertise) and do not have an unwaivable conflict of interest with respect to the project.

(2) EPA shall issue notices of disapproval and/or authorizations to proceed regarding the proposed Project Coordinator and Supervising Contractor, as applicable. If EPA issues a notice of disapproval, Respondents shall, within 30 days, submit to EPA a list of supplemental proposed Project Coordinators and/or Supervising Contractors, as applicable, including a description of the qualifications of each. EPA shall issue a notice of disapproval or authorization to proceed regarding each supplemental proposed coordinator and/or contractor. Respondents may select any coordinator/contractor covered by an authorization to proceed and shall, within 21 days, notify EPA of Respondents' selection.

(3) Respondents may change their Project Coordinator and/or Supervising Contractor, as applicable, by following the procedures of 21.c(1) and 21.c(2).

22. **Performance of Work in Accordance with SOW.** Respondents shall develop the RD in accordance with the SOW and all EPA-approved, conditionally approved, or modified deliverables as required by the SOW. All deliverables required to be submitted for approval under the Settlement or SOW shall be subject to approval by EPA in accordance with Paragraph 7.6 (Approval of Deliverables) of the SOW.

23. **Emergencies and Releases.** Respondents shall comply with the emergency and release response and reporting requirements under Paragraph 5.15 (Emergency Response and Reporting) of the SOW. Subject to Section XVI (Covenants by EPA), nothing in this Settlement, including Paragraph 5.15 of the SOW, limits any authority of EPA: (a) to take all appropriate action to protect human health and the environment or to prevent, abate, respond to, or minimize an actual or threatened release of Waste Material on, at, or from the EWOU, or (b) to direct or order such action to protect human health and the environment or to prevent, abate, respond to, or minimize an actual or threatened release of Waste Material on, at, or from the EWOU. If, due to Respondents' failure to take appropriate response action under Paragraph 5.15 of the SOW, EPA takes such action instead, Respondents shall reimburse EPA under Section XII (Payment of Response Costs) for all costs of the response action.

24. **Community Involvement.** If requested by EPA, Respondents shall conduct community involvement activities under EPA's oversight as provided for in, and in accordance with, Section 2 (Community Involvement) of the SOW. Such activities may include, but are not limited to, designation of a Community Involvement Coordinator and implementation of a technical assistance plan. Costs incurred by EPA under this Section constitute Future Response Costs to be reimbursed under Section XII (Payments of Response Costs).

25. **Modification of SOW or Related Deliverables**

a. If EPA determines that it is necessary to modify the work specified in the SOW and/or in deliverables developed under the SOW in order to carry out the RD, EPA will notify Respondents of such modification. If Respondents object to the modification they may, within 30 days after EPA's notification, seek dispute resolution under Section XIII (Dispute Resolution).

b. The SOW and/or related work plans shall be modified: (1) in accordance with the modification issued by EPA; or (2) if Respondents invoke dispute resolution, in accordance with the final resolution of the dispute. The modification shall be incorporated into and enforceable under this Settlement, and Respondents shall implement all work required by such modification. Respondents shall incorporate the modification into the deliverable required under the SOW, as appropriate.

c. Nothing in this Paragraph shall be construed to limit EPA's authority to require performance of further response actions as otherwise provided in this Settlement.

### VIII. PROPERTY REQUIREMENTS

26. **Agreements Regarding Access and Non-Interference.** Respondents shall, with respect to any Non-Settling Owner's Affected Property, use best efforts to secure from such Non-Settling Owner an agreement, enforceable by Respondents and EPA, providing that such Non-Settling Owner and Owner Respondent shall, with respect to Non-Settling Owner's Affected Property: (i) provide EPA, Respondents, and their representatives, contractors, and subcontractors with access at all reasonable times to such Affected Property to conduct any activity regarding the Settlement, including those activities listed in Paragraph 26.a (Access Requirements); and (ii) refrain from using such Affected Property in any manner that EPA determines will pose an unacceptable risk to human health or to the environment due to exposure to Waste Material, or that interferes with or adversely affects the implementation or integrity of the RD. Respondents shall provide a copy of such access agreement(s) to EPA.

a. **Access Requirements.** The following is a list of activities for which access is required regarding the Affected Property:

- (1) Monitoring the Work;
- (2) Verifying any data or information submitted to the United States;
- (3) Conducting investigations regarding contamination at or near the EWOU;
- (4) Obtaining samples;
- (5) Assessing the need for, planning, implementing, or monitoring response actions;
- (6) Assessing implementation of quality assurance and quality control practices as defined in the approved quality assurance quality control plan as provided in the SOW;
- (7) Implementing the Work pursuant to the conditions set forth in ¶ 68 (Work Takeover);
- (8) Inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Respondents or their agents, consistent with Section IX (Access to Information); and
- (9) Assessing Respondents' compliance with the Settlement.

27. **Best Efforts.** As used in this Section, “best efforts” means the efforts that a reasonable person in the position of Respondents would use so as to achieve the goal in a timely manner, including the cost of employing professional assistance and the payment of reasonable sums of money to secure access, as required by this Section. If Respondents are unable to accomplish what is required through “best efforts” in a timely manner, they shall notify EPA and include a description of the steps taken to comply with the requirements. If EPA deems it appropriate, it may assist Respondents, or take independent action, in obtaining such access. All costs incurred by the United States in providing such assistance or taking such action, including the cost of attorney time and the amount of monetary consideration or just compensation paid, constitute Future Response Costs to be reimbursed under Section XII (Payment of Response Costs).

28. In the event of any Transfer of the Affected Property, unless EPA otherwise consents in writing, Respondents shall continue to comply with their obligations under the Settlement, including their obligation[s] to secure access.

29. **Notice to Successors-in-Title.** Owner Respondent shall, prior to entering into a contract to Transfer its Affected Property, or 60 days prior to Transferring its Affected Property, whichever is earlier: (a) Notify the proposed transferee that EPA has determined that an RD must be performed at the EWOU, that potentially responsible parties have entered into an Administrative Settlement Agreement and Order on Consent requiring implementation of such RD (identifying the name, docket number, and the effective date of this Settlement); and (b) Notify EPA of the name and address of the proposed transferee and provide EPA with a copy of the above notice that it provided to the proposed transferee.

30. Notwithstanding any provision of the Settlement, EPA retains all of its access authorities and rights, as well as all of their rights to require land, water, or other resource use restrictions, including enforcement authorities related thereto under CERCLA, RCRA, and any other applicable statute or regulations.

## **IX. ACCESS TO INFORMATION**

31. Respondents shall provide to EPA, upon request, copies of all records, reports, documents and other information (including records, reports, documents and other information in electronic form) (hereinafter referred to as “Records”) within their possession or control or that of their contractors or agents relating to activities at or adjacent to the EWOU or to the implementation of this Settlement, including, but not limited to, sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Work. Respondents shall also make available to EPA, for purposes of investigation, information gathering, or testimony, their employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.

### **32. Privileged and Protected Claims**

a. Respondents may assert all or part of a Record requested by EPA is privileged or protected as provided under federal law and under the Washington

Uniform Mediation Act, RCW 7.07, in lieu of providing the Record, provided Respondents comply with ¶ 32.b, and except as provided in ¶ 32.c.

b. If Respondents assert such a privilege or protection, they shall provide EPA with the following information regarding such Record: its title; its date; the name, title, affiliation (e.g., company or firm), and address of the author, of each addressee, and of each recipient; a description of the Record's contents; and the privilege or protection asserted. If a claim of privilege or protection applies only to a portion of a Record, Respondents shall provide the Record to EPA in redacted form to mask the privileged or protected portion only. Respondents shall retain all Records that they claim to be privileged or protected until EPA has had a reasonable opportunity to dispute the privilege or protection claim and any such dispute has been resolved in Respondents' favor.

c. Respondents may make no claim of privilege or protection regarding: (1) any data regarding the EWOU, including, but not limited to, all sampling, analytical, monitoring, hydrogeological, scientific, chemical, radiological, or engineering data, or the portion of any other Record that evidences conditions at or around the EWOU; or (2) the portion of any Record that Respondents are required to create or generate pursuant to this Settlement.

33. **Business Confidential Claims.** Respondents may assert that all or part of a Record provided to EPA under this Section or Section X (Record Retention) is business confidential to the extent permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40 C.F.R. § 2.203(b). Respondents shall segregate and clearly identify all Records or parts thereof submitted under this Settlement for which Respondents assert business confidentiality claims. Records claimed as confidential business information will be afforded the protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies Records when they are submitted to EPA, or if EPA has notified Respondents that the Records are not confidential under the standards of Section 104(e)(7) of CERCLA or 40 C.F.R. Part 2, Subpart B, the public may be given access to such Records without further notice to Respondents.

34. Notwithstanding any provision of this Settlement, EPA retains all of its information gathering and inspection authorities and rights, including enforcement actions related thereto, under CERCLA, RCRA, and any other applicable statutes or regulations.

## X. RECORD RETENTION

35. Until 10 years after EPA provides notice pursuant to Paragraph 5.17 of the SOW (Notice of Work Completion), that all work has been fully performed in accordance with this Settlement, Respondents shall preserve and retain all non-identical copies of Records (including Records in electronic form) now in their possession or control or that come into their possession or control that relate in any manner to their liability under CERCLA with respect to the EWOU, provided, however, that Respondents who are potentially liable as owners or operators of the EWOU must retain, in addition, all Records that relate to the liability of any other person under CERCLA with respect to the EWOU. Each Respondent must also retain, and instruct its

contractors and agents to preserve, for the same period of time specified above, all non-identical copies of the last draft or final version of any Records (including Records in electronic form) now in their possession or control or that come into their possession or control that relate in any manner to the performance of the Work, provided, however, that each Respondent (and its contractors and agents) must retain, in addition, copies of all data generated during the performance of the Work and not contained in the aforementioned Records required to be retained. Each of the above record retention requirements shall apply regardless of any corporate retention policy to the contrary.

36. At the conclusion of the document retention period, Respondents shall notify EPA at least 90 days prior to the destruction of any such Records and, upon request by EPA, and except as provided for in ¶ 32 (Privileged and Protected Claims), Respondents shall deliver any such Records to EPA.

37. Each Respondent certifies individually that to the best of its knowledge and belief, after thorough inquiry, it has not altered, mutilated, discarded, destroyed, or otherwise disposed of any Records (other than identical copies) relating to its potential liability regarding the EWOU since notification of potential liability by EPA and that it has fully complied with any and all EPA requests for information regarding the EWOU pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927.

## **XI. COMPLIANCE WITH OTHER LAWS**

38. Nothing in this Settlement limits Respondents' obligations to comply with the requirements of all applicable federal and state laws and regulations. Respondents must also comply with all applicable or relevant and appropriate requirements of all federal and state environmental laws as set forth in the ROD and the SOW. The activities conducted pursuant to this Settlement, if approved by EPA, shall be considered consistent with the NCP.

39. **Permits.** As provided in Section 121(e) of CERCLA, 42 U.S.C. § 9621(e), and Section 300.400(c)(3) of the NCP, no permit shall be required for any portion of the Work conducted entirely on-site (i.e. within the areal extent of contamination or in very close proximity to the contamination and necessary for implementation of the Work). Where any portion of the Work that is not on-site requires a federal, state, or local permit or approval, Respondents shall submit timely and complete applications and take all other actions necessary to obtain and to comply with all such permits or approvals.

40. Respondents may seek relief under the provisions of Section XIV (Force Majeure) for any delay in performance of the Work resulting from a failure to obtain, or a delay in obtaining, any permit or approval referenced in ¶ 39 (Permits) and required for the Work, provided that they have submitted timely and complete applications and taken all other actions necessary to obtain all such permits or approvals. This Settlement is not, and shall not be construed to be, a permit issued pursuant to any federal or state statute or regulation.

## **XII. PAYMENT OF RESPONSE COSTS**

41. **Payment for Past Response Costs**

a. Within 30 days after the Effective Date, Respondents shall pay to EPA \$1,427,692.69 for Past Response Costs. Respondent shall make the payment at <https://www.pay.gov> in accordance with the following payment instructions: enter “sfo 1.1” in the search field to access EPA’s Miscellaneous Payment Form – Cincinnati Finance Center. Complete the form including the Site Name, docket number, and Site/Spill ID Number 10 T3. Respondents shall send to EPA, in accordance with Paragraph 21.a(2), a notice of this payment including these references. Each Respondent may pay EPA \$475,897.56 to satisfy this requirement provided all three Respondents pay this amount. Should there be an unpaid balance such that the total amount of Past Response Costs paid to EPA by the due date fails to equal \$1,427,692.69, all three Respondents will be subject to the requirements of Paragraph 43 and Section XV (Stipulated Penalties).

b. **Deposit of Past Response Costs Payments.** The total amount to be paid by Respondents pursuant to ¶ 41.a shall be deposited by EPA in the Harbor Island Special Account to be retained and used to conduct or finance response actions at or in connection with the Harbor Island Superfund Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

42. **Payments for Future Response Costs.** Respondents shall pay to EPA all Future Response Costs not inconsistent with the NCP.

a. **Periodic Bills.** On a periodic basis, EPA will send Respondents a bill requiring payment that includes a standard regionally prepared cost summary, which includes direct and indirect costs incurred by EPA, its contractors and subcontractors, and the United States Department of Justice. Respondents shall make all payments within 30 days after Respondents’ receipt of each bill requiring payment, except as otherwise provided in ¶ 45 (Contesting Future Response Costs). Respondents shall make all payments and send notice of the payments in accordance with the procedures under ¶ 41.a (Payment for Past Response Costs).

b. **Deposit of Future Response Costs Payments.** The total amount to be paid by Respondents pursuant to ¶ 42.a (Periodic Bills) shall be deposited by EPA in the Harbor Island Special Account to be retained and used to conduct or finance response actions at or in connection with the Harbor Island Superfund Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund, provided, however, that EPA may deposit a Future Response Costs payment directly into the EPA Hazardous Substance Superfund if, at the time the payment is received, EPA estimates that the Harbor Island Special Account balance is sufficient to address currently anticipated future response actions to be conducted or financed by EPA at or in connection with the Harbor Island Superfund Site. Any decision by EPA to deposit a Future Response Costs payment directly into the EPA Hazardous Substance Superfund for this reason shall not be subject to challenge by Respondents pursuant to the dispute resolution provisions of this Settlement or in any other forum.

43. **Interest.** In the event that any payment for Past Response Costs or Future Response Costs is not made by the date required, Respondents shall pay Interest on the unpaid balance. The Interest on Past Response Costs shall begin to accrue on the Effective Date. The Interest on Future Response Costs shall begin to accrue on the date of the bill. The Interest shall accrue through the date of Respondents' payment. Payments of Interest made under this Paragraph shall be in addition to such other remedies or sanctions available to the United States by virtue of Respondents' failure to make timely payments under this Section, including but not limited to, payment of stipulated penalties pursuant to Section XV (Stipulated Penalties).

44. **Contesting Future Response Costs.** Respondents may initiate the procedures of Section XIII (Dispute Resolution) regarding payment of any Future Response Costs billed under ¶ 42 (Payments for Future Response Costs) if they determine that EPA has made a mathematical error or included a cost item that is not within the definition of Future Response Costs, or if they believe EPA incurred excess costs as a direct result of an EPA action that was inconsistent with a specific provision or provisions of the NCP. To initiate such dispute, Respondents shall submit a Notice of Dispute in writing to the OSC/RPM within 30 days after receipt of the bill. Any such Notice of Dispute shall specifically identify the contested Future Response Costs and the basis for objection. If Respondents submit a Notice of Dispute, Respondents shall within the 30-day period, also as a requirement for initiating the dispute, (a) pay all uncontested Future Response Costs to EPA in the manner described in ¶ 42.a and (b) establish, in a duly chartered bank or trust company, an interest-bearing escrow account that is insured by the Federal Deposit Insurance Corporation (FDIC) and remit to that escrow account funds equivalent to the amount of the contested Future Response Costs. Respondents shall send to the OSC/RPM a copy of the transmittal letter and check paying the uncontested Future Response Costs, and a copy of the correspondence that establishes and funds the escrow account, including, but not limited to, information containing the identity of the bank and bank account under which the escrow account is established as well as a bank statement showing the initial balance of the escrow account. If EPA prevails in the dispute, within 5 days after the resolution of the dispute, Respondents shall pay the sums due (with accrued interest) to EPA in the manner described in ¶ 42. If Respondents prevail concerning any aspect of the contested costs, Respondents shall pay that portion of the costs (plus associated accrued interest) for which they did not prevail to EPA in the manner described in ¶ 42. Respondents shall be disbursed any balance of the escrow account. The dispute resolution procedures set forth in this Paragraph in conjunction with the procedures set forth in Section XIII (Dispute Resolution) shall be the exclusive mechanisms for resolving disputes regarding Respondents' obligation to reimburse EPA for its Future Response Costs.

### **XIII. DISPUTE RESOLUTION**

45. Unless otherwise expressly provided for in this Settlement, the dispute resolution procedures of this Section shall be the exclusive mechanism for resolving disputes arising under this Settlement. The Parties shall attempt to resolve any disagreements concerning this Settlement expeditiously and informally.

46. **Informal Dispute Resolution.** If Respondents object to any EPA action taken pursuant to this Settlement, including billings for Future Response Costs, they shall send EPA a written Notice of Dispute describing the objection(s) within 30 days after such action, unless the

objection(s) has/have been resolved informally. EPA and Respondents shall have 20 days from EPA's receipt of Respondents' Notice of Dispute to resolve the dispute through informal negotiations (the "Negotiation Period"). The Negotiation Period may be extended at the sole discretion of EPA. Any agreement reached by the Parties pursuant to this Section shall be in writing and shall, upon signature by the Parties, be incorporated into and become an enforceable part of this Settlement.

47. **Formal Dispute Resolution.** If the Parties are unable to reach an agreement within the Negotiation Period, Respondents shall, within 21 days after the end of the Negotiation Period, submit a statement of position to EPA. EPA may, within 20 days thereafter, submit a statement of position. Thereafter, an EPA management official at the Division Director level or higher will issue a written decision on the dispute to Respondents. This decision shall be incorporated into and become an enforceable part of this Settlement. Following resolution of the dispute, as provided by this Section, Respondents shall fulfill the requirement that was the subject of the dispute in accordance with the agreement reached or with the EPA decision, whichever occurs.

48. The invocation of formal dispute resolution procedures under this Section does not extend, postpone, or affect in any way any obligation of Respondents under this Settlement, except as provided by ¶ 44 (Contesting Future Response Costs), as agreed by EPA.

49. Except as provided in ¶ 60, stipulated penalties with respect to the disputed matter shall continue to accrue, but payment shall be stayed pending resolution of the dispute. Notwithstanding the stay of payment, stipulated penalties shall accrue from the first day of noncompliance with any applicable provision of this Settlement. In the event that Respondents do not prevail on the disputed issue, stipulated penalties shall be assessed and paid as provided in Section XV (Stipulated Penalties).

#### **XIV. FORCE MAJEURE**

50. "Force Majeure" for purposes of this Settlement is defined as any event arising from causes beyond the control of Respondents, of any entity controlled by Respondents, or of Respondents' contractors that delays or prevents the performance of any obligation under this Settlement despite Respondents' best efforts to fulfill the obligation. The requirement that Respondents exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate any potential force majeure and best efforts to address the effects of any potential force majeure (a) as it is occurring and (b) following the potential force majeure such that the delay and any adverse effects of the delay are minimized to the greatest extent possible. "Force majeure" does not include financial inability to complete the Work or increased cost of performance.

51. If any event occurs or has occurred that may delay the performance of any obligation under this Settlement for which Respondents intend or may intend to assert a claim of force majeure, Respondents shall notify the OSC/RPM orally or, in his or her absence, EPA's Alternate OSC/RPM or, in the event both of EPA's designated representatives are unavailable, the Branch Manager of the Superfund and Emergency Management Division, EPA Region 10, within ten days of when Respondents first knew that the event might cause a delay. Within seven

days thereafter, Respondents shall provide in writing to EPA an explanation and description of the reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or minimize the delay; a schedule for implementation of any measures to be taken to prevent or mitigate the delay or the effect of the delay; Respondents' rationale for attributing such delay to a force majeure; and a statement as to whether, in the opinion of Respondents, such event may cause or contribute to an endangerment to public health or welfare, or the environment. Respondents shall include with any notice all available documentation supporting their claim that the delay was attributable to a force majeure. Respondents shall be deemed to know of any circumstance of which Respondents, any entity controlled by Respondents, or Respondents' contractors knew or should have known. Failure to comply with the above requirements regarding an event shall preclude Respondents from asserting any claim of force majeure regarding that event, provided, however, that if EPA, despite the late or incomplete notice, is able to assess to its satisfaction whether the event is a force majeure under ¶ 50 and whether Respondents have exercised their best efforts under ¶ 50, EPA may, in its unreviewable discretion, excuse in writing Respondents' failure to submit timely or complete notices under this Paragraph.

52. If EPA agrees that the delay or anticipated delay is attributable to a force majeure, the time for performance of the obligations under this Settlement that are affected by the force majeure will be extended by EPA for such time as is necessary to complete those obligations. An extension of the time for performance of the obligations affected by the force majeure shall not, of itself, extend the time for performance of any other obligation. If EPA does not agree that the delay or anticipated delay has been or will be caused by a force majeure, EPA will notify Respondents in writing of its decision. If EPA agrees that the delay is attributable to a force majeure, EPA will notify Respondents in writing of the length of the extension, if any, for performance of the obligations affected by the force majeure.

53. If Respondents elect to invoke the dispute resolution procedures set forth in Section XIII (Dispute Resolution), they shall do so no later than 15 days after receipt of EPA's notice. In any such proceeding, Respondents shall have the burden of demonstrating by a preponderance of the evidence that the delay or anticipated delay has been or will be caused by a force majeure, that the duration of the delay or the extension sought was or will be warranted under the circumstances, that best efforts were exercised to avoid and mitigate the effects of the delay, and that Respondents complied with the requirements of §§ 50 and 51. If Respondents carry this burden, the delay at issue shall be deemed not to be a violation by Respondents of the affected obligation of this Settlement identified to EPA.

54. The failure by EPA to timely complete any obligation under the Settlement is not a violation of the Settlement, provided, however, that if such failure prevents Respondents from meeting one or more deadlines under the Settlement, Respondents may seek relief under this Section.

## **XV. STIPULATED PENALTIES**

55. Respondents shall be liable to EPA for stipulated penalties in the amounts set forth in ¶ 56.a for failure to comply with the obligations specified in ¶ 56.b, unless excused under Section XIV (Force Majeure) or modified under Section XXV (Modification). "Comply" as used

in the previous sentence includes compliance by Respondents with all applicable requirements of this Settlement, within the deadlines established under this Settlement. If (a) an initially submitted or resubmitted deliverable contains a material defect, and the conditions are met for modifying the deliverable under Paragraphs 7.6(a)(ii) and 7.6(b) of the SOW; or (b) a resubmitted deliverable contains a material defect; then the material defect constitutes a lack of compliance for purposes of this Paragraph.

**56. Stipulated Penalty Amounts: Payments, Financial Assurance, Deliverables in RD Schedule.**

a. The following stipulated penalties shall accrue per violation per day for any noncompliance with any obligation identified below:

<b>Penalty Per Violation Per Day</b>	<b>Period of Noncompliance</b>
\$ 750	1st through 14th day
\$ 2,000	15th through 30th day
\$ 4,000	31st day and beyond

**b. Obligations**

(1) Payment of any amount due under Section XII (Payment of Response Costs).

(2) Establishment and maintenance of financial assurance in accordance with Section XXIII (Financial Assurance).

(3) Establishment of an escrow account to hold any disputed Future Response Costs under ¶ 44 (Contesting Future Response Costs).

(4) Submission of timely and adequate deliverables required under this Settlement or the SOW.

57. In the event that EPA assumes performance of a portion or all of the Work pursuant to ¶ 68 (Work Takeover), Respondents shall be liable for a stipulated penalty in an amount selected by EPA that will not exceed 33% of the cost of EPA’s performance of the takeover work. Stipulated penalties under this Paragraph are in addition to the remedies available to EPA under ¶¶ 68 (Work Takeover) and 92 (Access to Financial Assurance).

58. Stipulated penalties shall begin to accrue on the day after the complete performance is due or the day a violation occurs and shall continue to accrue through the final day of the correction of the noncompliance or completion of the activity. Penalties shall continue to accrue during any dispute resolution period and shall be paid within 15 days after the agreement or the receipt of EPA’s decision. However, stipulated penalties shall not accrue: (a) with respect to a deficient submission under Paragraph 7.6 (Approval of Deliverables) of the

SOW, during the period, if any, beginning on the 31st day after EPA's receipt of such submission until the date that EPA notifies Respondents of any deficiency; and (b) with respect to a decision by the EPA Division Director level or higher, under Section XIII (Dispute Resolution), during the period, if any, beginning on the 21st day after the Negotiation Period begins until the date that EPA issues a final decision regarding such dispute. Nothing in this Settlement shall prevent the simultaneous accrual of separate penalties for separate violations of this Settlement.

59. Following EPA's determination that Respondents have failed to comply with a requirement of this Settlement, EPA may give Respondents written notification of the failure and describe the noncompliance. EPA may send Respondents a written demand for payment of the penalties. However, penalties shall accrue as provided in the preceding Paragraph regardless of whether EPA has notified Respondents of a violation.

60. All penalties accruing under this Section shall be due and payable to EPA within 30 days after Respondents' receipt from EPA of a demand for payment of the penalties, unless Respondents invoke the Dispute Resolution procedures under Section XIII (Dispute Resolution) within the 30-day period. Respondents shall make all payments at <https://www.pay.gov> using the link for "EPA Miscellaneous Payments Cincinnati Finance Center," including references to the EWOU and Harbor Island Superfund Site, docket number for this action, and Site/Spill ID Number 10 T3. For the purpose of the payment. Respondents shall send to EPA, in accordance with the directions in ¶ 21.a(2), a notice of this payment including these references.

61. If Respondents fail to pay stipulated penalties when due, Respondents shall pay Interest on the unpaid stipulated penalties as follows: (a) if Respondents have timely invoked dispute resolution such that the obligation to pay stipulated penalties has been stayed pending the outcome of dispute resolution, Interest shall accrue from the date stipulated penalties are due pursuant to ¶ 60 until the date of payment; and (b) if Respondents fail to timely invoke dispute resolution, Interest shall accrue from the date of demand under ¶ 60 until the date of payment. If Respondents fail to pay stipulated penalties and Interest when due, the United States may institute proceedings to collect the penalties and Interest.

62. The payment of penalties and Interest, if any, shall not alter in any way Respondents' obligation to complete performance of the Work required under this Settlement.

63. Nothing in this Settlement shall be construed as prohibiting, altering, or in any way limiting the ability of EPA to seek any other remedies or sanctions available by virtue of Respondents' violation of this Settlement or of the statutes and regulations upon which it is based, including, but not limited to, penalties pursuant to Section 122(l) of CERCLA, 42 U.S.C. § 9622(l), and punitive damages pursuant to Section 107(c)(3) of CERCLA, 42 U.S.C. § 9607(c)(3), provided, however, that EPA shall not seek civil penalties pursuant to Section 122(l) of CERCLA or punitive damages pursuant to Section 107(c)(3) of CERCLA for any violation for which a stipulated penalty is provided in this Settlement, except in the case of a willful violation of this Settlement or in the event that EPA assumes performance of a portion or all of the Work pursuant to ¶ 68 (Work Takeover).

64. Notwithstanding any other provision of this Section, EPA may, in its unreviewable discretion, waive any portion of stipulated penalties that have accrued pursuant to this Settlement.

#### **XVI. COVENANTS BY EPA**

65. Except as provided in Section XVII (Reservation of Rights by EPA), EPA covenants not to sue or to take administrative action against Respondents pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), for the Work, Past Response Costs, and Future Response Costs. These covenants shall take effect upon the Effective Date. These covenants are conditioned upon the complete and satisfactory performance by Respondents of their obligations under this Settlement. These covenants extend only to Respondents and do not extend to any other person.

#### **XVII. RESERVATIONS OF RIGHTS BY EPA**

66. Except as specifically provided in this Settlement, nothing in this Settlement shall limit the power and authority of EPA or the United States to take, direct, or order all actions necessary to protect public health, welfare, or the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substances, pollutants, or contaminants, or hazardous or solid waste on, at, or from the Site. Further, nothing in this Settlement shall prevent EPA from seeking legal or equitable relief to enforce the terms of this Settlement, from taking other legal or equitable action as it deems appropriate and necessary, or from requiring Respondents in the future to perform additional activities pursuant to CERCLA or any other applicable law.

67. The covenants set forth in Section XVI (Covenants by EPA) above do not pertain to any matters other than those expressly identified therein. EPA reserves, and this Settlement is without prejudice to, all rights against Respondents with respect to all other matters, including, but not limited to:

- a. liability for failure by Respondents to meet a requirement of this Settlement;
- b. liability for costs not included within the definitions of Past Response Costs or Future Response Costs;
- c. liability for performance of response action other than the Work;
- d. criminal liability;
- e. liability for violations of federal or state law that occur during or after implementation of the Work;
- f. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;

- g. liability arising from the past, present, or future disposal, release or threat of release of Waste Materials outside of the Site;
- h. liability for costs incurred or to be incurred by the Agency for Toxic Substances and Disease Registry related to the EWOU not paid as Future Response Costs under this Settlement; and
- i. liability for costs incurred by EPA in performing response actions for the EWOU prior to September 30, 2019. EPA agrees to consider the provision of orphan share compensation in any future settlement of EWOU claims.

**68. Work Takeover**

- a. In the event EPA determines that Respondents: (1) have ceased implementation of any portion of the Work; (2) are seriously or repeatedly deficient or late in their performance of the Work; or (3) are implementing the Work in a manner that may cause an endangerment to human health or the environment, EPA may issue a written notice (“Work Takeover Notice”) to Respondents. Any Work Takeover Notices issued by EPA (which writing may be electronic) will specify the grounds upon which such notice was issued and will provide Respondents a period of time (“Remedy Period”) that is ten days or longer, as prescribed by EPA, in its unreviewable discretion, within which to remedy the circumstances giving rise to EPA’s issuance of such notice.
- b. If, after expiration of the Remedy Period specified in ¶ 68.a Respondents have not remedied to EPA’s satisfaction the circumstances giving rise to EPA’s issuance of the relevant Work Takeover Notice, EPA may at any time thereafter assume the performance of all or any portion(s) of the Work as EPA deems necessary (“Work Takeover”). EPA will notify Respondents in writing (which writing may be electronic) if EPA determines that implementation of a Work Takeover is warranted under this ¶ 68.b. Funding of Work Takeover costs is addressed under ¶ 92 (Access to Financial Assurance).
- c. Respondents may invoke the procedures set forth in ¶ 47 (Formal Dispute Resolution) to dispute EPA’s implementation of a Work Takeover under ¶ 68.b. However, notwithstanding Respondents’ invocation of such dispute resolution procedures, and during the pendency of any such dispute, EPA may in its sole discretion commence and continue a Work Takeover under ¶ 68.b until the earlier of (1) the date that Respondents remedy, to EPA’s satisfaction, the circumstances giving rise to EPA’s issuance of the relevant Work Takeover Notice, or (2) the date that a written decision terminating such Work Takeover is rendered in accordance with ¶ 47 (Formal Dispute Resolution).
- d. Notwithstanding any other provision of this Settlement, EPA retains all authority and reserves all rights to take any and all response actions authorized by law.

## XVIII. COVENANTS BY RESPONDENTS

69. Except as provided in Paragraph 73 below, Respondents covenant not to sue and agree not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the Work, Past Response Costs, Future Response Costs, and this Settlement, including, but not limited to:

- a. any direct or indirect claim for reimbursement from the EPA Hazardous Substance Superfund through Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;
- b. any claim under Sections 107 and 113 of CERCLA, Section 7002(a) of RCRA, 42 U.S.C. § 6972(a), or state law relating to the Work, Past Response Costs, Future Response Costs, and this Settlement; or
- c. any claim arising out of response actions at or in connection with the EWOU, including any claim under the United States Constitution, the Washington State Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, or at common law.

70. These covenants not to sue shall not apply in the event the United States brings a cause of action or issues an order pursuant to any of the reservations set forth in Section XVII (Reservations of Rights by EPA), other than in ¶ 67.a (liability for failure to meet a requirement of the Settlement), 67.d (criminal liability), or 67.e (violations of federal/state law during or after implementation of the Work), but only to the extent that Respondents' claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

71. Nothing in this Settlement shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. § 300.700(d).

72. Respondents reserve, and this Settlement is without prejudice to, claims against the United States, subject to the provisions of Chapter 171 of Title 28 of the United States Code, and brought pursuant to any statute other than CERCLA or RCRA and for which the waiver of sovereign immunity is found in a statute other than CERCLA or RCRA, for money damages for injury or loss of property or personal injury or death caused by the negligent or wrongful act or omission of any employee of the United States, as that term is defined in 28 U.S.C. § 2671, while acting within the scope of his or her office or employment under circumstances where the United States, if a private person, would be liable to the claimant in accordance with the law of the place where the act or omission occurred. However, the foregoing shall not include any claim based on EPA's selection of response actions, or the oversight or approval of Respondents' deliverables or activities.

73. Notwithstanding any other provision of this Settlement, this Settlement Agreement shall not have any effect on claims or causes of action that any Respondent has or may have pursuant to Section 113(f) of CERCLA, 42 U.S.C. § 9613(f), against the United States

or any department or agency thereof, based upon the United States' status as a potentially responsible party pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), relating to the Work, Past Response Costs, Future Response Costs, and this Settlement.

## **XIX. OTHER CLAIMS**

74. By issuance of this Settlement, the United States, except in its status as a potentially responsible party pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), and EPA assume no liability for injuries or damages to persons or property resulting from any acts or omissions of Respondents for the Work. The United States or EPA shall not be deemed a party to any contract entered into by Respondents or their directors, officers, employees, agents, successors, representatives, assigns, contractors, or consultants in carrying out actions pursuant to this Settlement.

75. Except as expressly provided in Section XVI (Covenants by EPA) and XX (Effect of Settlement/Contribution), nothing in this Settlement constitutes a satisfaction of or release from any claim or cause of action against Respondents or any person not a party to this Settlement for any liability such person may have under CERCLA, other statutes, or common law, including but not limited to any claims of the United States for costs, damages, and interest under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607.

76. No action or decision by EPA pursuant to this Settlement shall give rise to any right to judicial review, except as set forth in Section 113(h) of CERCLA, 42 U.S.C. § 9613(h).

## **XX. EFFECT OF SETTLEMENT/CONTRIBUTION**

77. Nothing in this Settlement shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Settlement. Except as provided in Section XVIII (Covenants by Respondents), each of the Parties expressly reserves any and all rights (including, but not limited to, pursuant to Section 113 of CERCLA, 42 U.S.C. § 9613), defenses, claims, demands, and causes of action that each Party may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto. Nothing in this Settlement diminishes the right of the United States, pursuant to Section 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613(f)(2)-(3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2).

78. The Parties agree that this Settlement constitutes an administrative settlement pursuant to which each Respondent has, as of the Effective Date, resolved liability to the United States within the meaning of Sections 113(f)(2) and 122(h)(4) of CERCLA, 42 U.S.C. §§ 9613(f)(2) and 9622(h)(4), and is entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Sections 113(f)(2) and 122(h)(4) of CERCLA, or as may be otherwise provided by law, for the "matters addressed" in this Settlement. The "matters addressed" in this Settlement are the Work, Past Response Costs, and Future Response Costs.

79. The Parties further agree that this Settlement constitutes an administrative settlement pursuant to which each Respondent has, as of the Effective Date, resolved liability to

the United States within the meaning of Section 113(f)(3)(B) of CERCLA, 42 U.S.C. § 9613(f)(3)(B).

80. Each Respondent shall, with respect to any suit or claim brought by it for matters related to this Settlement, notify EPA in writing no later than 60 days prior to the initiation of such suit or claim. Each Respondent also shall, with respect to any suit or claim brought against it for matters related to this Settlement, notify EPA in writing within 10 days after service of the complaint or claim upon it. In addition, each Respondent shall notify EPA within 10 days after service or receipt of any Motion for Summary Judgment and within 10 days after receipt of any order from a court setting a case for trial, for matters related to this Settlement.

81. In any subsequent administrative or judicial proceeding initiated by EPA, or by the United States on behalf of EPA, for injunctive relief, recovery of response costs, or other relief relating to the EWOU, Respondents shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the covenant by EPA set forth in Section XVI (Covenants by EPA).

82. Effective upon signature of this Settlement by a Respondent, such Respondent agrees that the time period commencing on the date of its signature and ending on the date EPA receives from such Respondent the payment(s) required by ¶ 41 (Payment for Past Response Costs) and, if any, Section XV (Stipulated Penalties) shall not be included in computing the running of any statute of limitations potentially applicable to any action brought by the United States related to the “matters addressed” as defined in ¶ 78 and that, in any action brought by the United States related to the “matters addressed,” such Respondent will not assert, and may not maintain, any defense or claim based upon principles of statute of limitations, waiver, laches, estoppel, or other defense based on the passage of time during such period. If EPA gives notice to Respondents that it will not make this Settlement effective, the statute of limitations shall begin to run again commencing ninety days after the date such notice is sent by EPA.

## **XXI. INDEMNIFICATION**

83. The United States does not assume any liability by entering into this Settlement or by virtue of any designation of Respondents as EPA’s authorized representatives under Section 104(e) of CERCLA, 42 U.S.C. § 9604(e), and 40 C.F.R. 300.400(d)(3). To the extent permitted by law, Respondents shall indemnify, save, and hold harmless the United States, its officials, agents, employees, contractors, subcontractors, employees, and representatives for or from any and all claims or causes of action arising from, or on account of, negligent or other wrongful acts or omissions of Respondents, their officers, directors, employees, agents, contractors, or subcontractors, and any persons acting on Respondents’ behalf or under their control, in carrying out activities pursuant to this Settlement. Further, Respondents agree to pay the United States all costs it incurs, including, but not limited to attorneys’ fees and other expenses of litigation and settlement arising from, or on account of, claims made against the United States based on negligent or other wrongful acts or omissions of Respondents, their officers, directors, employees, agents, contractors, subcontractors, and any persons acting on their behalf or under

their control, in carrying out activities pursuant to this Settlement. The United States shall not be held out as a party to any contract entered into, by, or on behalf of Respondents in carrying out activities pursuant to this Settlement. Neither Respondents nor any such contractor shall be considered an agent of the United States.

84. The United States shall give Respondents notice of any claim for which the United States plans to seek indemnification pursuant to this Section and shall consult with Respondents prior to settling such claim.

85. Respondents covenant not to sue and agree not to assert any claims or causes of action against the United States except in its status as a potentially responsible party pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), for damages or reimbursement or for set-off of any payments made, or to be made, to the United States, arising from or on account of any contract, agreement, or arrangement between any one or more of Respondents and any person for performance of Work on or relating to the EWOU, including, but not limited to, claims on account of construction delays. In addition, Respondents shall indemnify and hold harmless the United States except in its status as a potentially responsible party pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), with respect to any and all claims for damages or reimbursement arising from or on account of, any contract, agreement, or arrangement between any one or more of Respondents and any person for performance of Work on or relating to the EWOU, including, but not limited to, claims on account of construction delays.

## **XXII. INSURANCE**

86. No later than 30 days before commencing any on-site Work, Respondents shall secure, and shall maintain until the first anniversary after issuance of Notice of Work Completion pursuant to Paragraph 5.17 of the SOW, commercial general liability insurance with limits of liability of \$1 million per occurrence, and automobile insurance with limits of liability of \$1 million per accident, and umbrella liability insurance with limits of liability of \$5 million in excess of the required commercial general liability and automobile liability limits, naming EPA as an additional insured with respect to all liability arising out of the activities performed by or on behalf of Respondents pursuant to this Settlement. In addition, for the duration of the Settlement, Respondents shall provide EPA with certificates of such insurance and a copy of each insurance policy. Respondents shall resubmit such certificates and copies of policies each year on the anniversary of the Effective Date. In addition, for the duration of the Settlement, Respondents shall satisfy, or shall ensure that their contractors or subcontractors satisfy, all applicable laws and regulations regarding the provision of worker's compensation insurance for all persons performing the Work on behalf of Respondents in furtherance of this Settlement. If Respondents demonstrate by evidence satisfactory to EPA that any contractor or subcontractor maintains insurance equivalent to that described above, or insurance covering some or all of the same risks but in a lesser amount, Respondents need provide only that portion of the insurance described above that is not maintained by the contractor or subcontractor. Respondents shall ensure that all submittals to EPA under this Paragraph identify the EWOU, Harbor Island Superfund Site, Seattle, Washington, and the EPA docket number for this action.

### XXIII. FINANCIAL ASSURANCE

87. In order to ensure the completion of the Work, Respondents shall secure financial assurance, initially in the amount of \$20,000,000 (“Estimated Cost of the Work”), for the benefit of EPA. The financial assurance must be one or more of the mechanisms listed below, in a form substantially identical to the relevant sample documents available from EPA or under the “Financial Assurance - Settlements” category on the Cleanup Enforcement Model Language and Sample Documents Database at <https://cfpub.epa.gov/compliance/models/>, and satisfactory to EPA. Respondents may use multiple mechanisms if they are limited to surety bonds guaranteeing payment, letters of credit, trust funds, and/or insurance policies.

- a. A surety bond guaranteeing payment and/or performance of the Work that is issued by a surety company among those listed as acceptable sureties on federal bonds as set forth in Circular 570 of the U.S. Department of the Treasury;
- b. An irrevocable letter of credit, payable to or at the direction of EPA, that is issued by an entity that has the authority to issue letters of credit and whose letter-of-credit operations are regulated and examined by a federal or state agency;
- c. A trust fund established for the benefit of EPA that is administered by a trustee that has the authority to act as a trustee and whose trust operations are regulated and examined by a federal or state agency;
- d. A policy of insurance that provides EPA with acceptable rights as a beneficiary thereof and that is issued by an insurance carrier that has the authority to issue insurance policies in the applicable jurisdiction(s) and whose insurance operations are regulated and examined by a federal or state agency;
- e. A demonstration by a Respondent that it meets the financial test criteria of ¶ 889, accompanied by a standby funding commitment, which obligates the affected Respondent to pay funds to or at the direction of EPA, up to the amount financially assured through the use of this demonstration in the event of a Work Takeover; or
- f. A guarantee to fund or perform the Work executed in favor of EPA by a company: (1) that is a direct or indirect parent company of a Respondent or has a “substantial business relationship” (as defined in 40 C.F.R. § 264.141(h)) with a Respondent; and (2) can demonstrate to EPA’s satisfaction that it meets the financial test criteria of ¶ 88; or
- g. A demonstration by one or more local government Respondent(s) that it meets the relevant test criteria of ¶ 90.

88. Respondents seeking to provide financial assurance by means of a demonstration or guarantee under ¶ 87.e or ¶ 87.f, must, within 30 days of the Effective Date:

- a. Demonstrate that:

- (1) The affected Respondent or guarantor has:
  - i. Two of the following three ratios: a ratio of total liabilities to net worth less than 2.0; a ratio of the sum of net income plus depreciation, depletion, and amortization to total liabilities greater than 0.1; and a ratio of current assets to current liabilities greater than 1.5; and
  - ii. Net working capital and tangible net worth each at least six times the sum of the Estimated Cost of the Work and the amounts, if any, of other federal, state, or tribal environmental obligations financially assured through the use of a financial test or guarantee; and
  - iii. Tangible net worth of at least \$10 million; and
  - iv. Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the Estimated Cost of the Work and the amounts, if any, of other federal, state, or tribal environmental obligations financially assured through the use of a financial test or guarantee; or

- (2) The affected Respondent or guarantor has:
  - i. A current rating for its senior unsecured debt of AAA, AA, A, or BBB as issued by Standard and Poor's or Aaa, Aa, A or Baa as issued by Moody's; and
  - ii. Tangible net worth at least six times the sum of the Estimated Cost of the Work and the amounts, if any, of other federal, state, or tribal environmental obligations financially assured through the use of a financial test or guarantee; and
  - iii. Tangible net worth of at least \$10 million; and
  - iv. Assets located in the United States amounting to at least 90 percent of total assets or at least six times the sum of the Estimated Cost of the Work and the amounts, if any, of other federal, state, or tribal environmental obligations financially assured through the use of a financial test or guarantee; and

b. Submit to EPA for the affected Respondent or guarantor: (1) a copy of an independent certified public accountant's report of the entity's financial statements for the latest completed fiscal year, which must not express an adverse opinion or disclaimer of opinion; and (2) a letter from its chief financial officer

and a report from an independent certified public accountant substantially identical to the sample letter and reports available from EPA or under the “Financial Assurance - Settlements” subject list category on the Cleanup Enforcement Model Language and Sample Documents Database at <https://cfpub.epa.gov/compliance/models/>.

89. Respondents providing financial assurance by means of a demonstration or guarantee under ¶ 87.e or ¶ 87.f must also:

- a. Annually resubmit the documents described in ¶ 88.88.b within 90 days after the close of the affected Respondent’s or guarantor’s fiscal year;
- b. Notify EPA within 30 days after the affected Respondent or guarantor determines that it no longer satisfies the relevant financial test criteria and requirements set forth in this Section; and
- c. Provide to EPA, within 30 days of EPA’s request, reports of the financial condition of the affected Respondent or guarantor in addition to those specified in ¶ 88.88.b; EPA may make such a request at any time based on a belief that the affected Respondent or guarantor may no longer meet the financial test requirements of this Section.

90. A local government Settling Work Defendant seeking to provide financial assurance by means of a demonstration under ¶ 87.g must, within 45 days after the Effective Date:

- a. Demonstrate that:
  - (1) The local government Settling Work Defendant providing the demonstration is a local government unit (for example a United States city or county).
  - (2) if the local government Settling Work Defendant providing the demonstration has outstanding, rated, general obligation bonds that are not secured by insurance, a letter of credit, or other collateral or guarantee, it must have a current rating of Aaa, Aa, A, or Baa, as issued by Moody's, or AAA, AA, A, or BBB, as issued by Standard and Poor's on all such bonds; or
  - (3) each of the following financial ratios based on that local government Settling Work Defendant’s most recent audited annual financial statement: a ratio of cash plus marketable securities to total expenditures greater than or equal to 0.05; and a ratio of annual debt service to total expenditures less than or equal to 0.20.
- b. The local government Settling Work Defendant providing the demonstration must prepare its financial statements in conformity with Generally Accepted Accounting Principles for governments and have its financial

statements audited by an independent certified public accountant (or the Washington State Auditor).

c. The local government Settling Work Defendant providing the demonstration must not (1) be currently in default on any outstanding general obligation bonds; (2) must not have any outstanding general obligation bonds rated lower than Baa as issued by Moody's or BBB as issued by Standard and Poor's; (3) must not have operated at a deficit equal to five percent or more of total annual revenue in each of the past two fiscal years; and (4) must not have received an adverse opinion, disclaimer of opinion, or other qualified opinion from the independent certified public accountant (or the Washington State Auditor) auditing its financial statement as required under ¶ 90.b (except for qualifications that are immaterial or deemed insufficient to warrant disallowance of use of the test by the EPA).

d. The following terms used in this section are defined as follows:(1) Deficit equals total annual revenues, minus total annual expenditures, measured on a government-wide basis; (2) Total annual revenues includes all revenues recognized in a fiscal year under applicable accounting principles, from all taxes, fees, charges, and other sources of income, including all utility gross revenues, plus any reserves or fund balance applied or used in that year, but does not include the proceeds from borrowing for capital purposes or revenues realized from asset sales; (3) Total annual expenditures includes all expenditures made during a fiscal year, excluding capital outlays and excluding funds applied to debt repayment and costs of debt issuance; (4) Cash plus marketable securities is all the cash plus marketable securities held by the local government Settling Work Defendant on the last day of a fiscal year, excluding cash and marketable securities designated to satisfy past obligations such as pensions or held by a trustee on behalf of the local government Settling Work Defendant; and (5) Debt service is the amount of principal and interest due on a debt obligation in a given time period, typically the current year.

e. demonstration must place a reference to the estimated cost of the Work assured through the financial test into its next annual comprehensive financial report ("ACFR") after the Effective Date.

f. The amount that can be financially assured by this financial test mechanism by a local government Settling Work Defendant is determined as follows:

(1) If the local government Settling Work Defendant does not assure other environmental obligations through a financial test, the estimated cost of the Work may equal up to 43 percent of the local government Settling Work Defendant's total annual revenue.

(2) If the local government Settling Work Defendant assures any other environmental obligations through a financial test, it must add those costs to the

estimated cost of the Work it seeks to assure under this Paragraph. The total that may be assured must not exceed 43 percent of the local government Settling Work Defendant's total annual revenue.

g. A local government Settling Work Defendant providing the demonstration under this section must provide the following documents within 45 days of the Effective Date. These documents must also be resubmitted annually, within 270 days following the close of the local government Settling Work Defendant's fiscal year, until the financial assurance requirements are released, or an alternative instrument is accepted by EPA.

(1) A letter signed by the local government Settling Work Defendant's Director of Finance or other official serving as chief financial or operating officer that: lists all the current cost estimates covered by a financial test, as described in ¶ 90.f of this section; provides evidence and certifies that the local government Settling Work Defendant meets the conditions of ¶ 90.a(1) and either ¶ 90.a(2) or ¶ 90.a(3) of this ¶ 90; and certifies that the local government Settling Work Defendant is in compliance with all conditions of this section;

(2) The local government Settling Work Defendant's independently audited year-end financial statements for the latest fiscal year, including the unqualified opinion of the auditor who must be an independent, certified public accountant or an appropriate State agency that conducts equivalent comprehensive audits;

(3) A report to the local government Settling Work Defendant from the local government Settling Work Defendant's independent certified public accountant ("CPA") or the appropriate State agency based on performing an agreed upon procedures engagement relative to the financial ratios required by ¶ 90.a(3), if applicable, and the requirements of ¶ 90.f(1) or f(2). The CPA or State agency's report should state the procedures performed and the CPA or State agency's findings. If the financial ratios under ¶ 90.a(3) are not applicable, then the foregoing requirement may be satisfied by a certificate provided by the local government Settling Work Defendant's Chief Financial or Operating Officer, in reliance upon audited financial statements, attesting that the requirements of ¶ 90.f(1) or ¶ 90.f(2), as applicable, have been satisfied; and

(4) A copy of the annual comprehensive financial report used to comply with ¶ 90.e of this section or certification that the requirements of General Accounting Standards Board Statement 18 have been met.

91. Respondents shall diligently monitor the adequacy of the financial assurance. If any Respondent becomes aware of any information indicating that the financial assurance provided under this Section is inadequate or otherwise no longer satisfies the requirements of this

Section, such Respondent shall notify EPA of such information within seven days. If EPA determines that the financial assurance provided under this Section is inadequate or otherwise no longer satisfies the requirements of this Section, EPA will notify the affected Respondent of such determination. Respondents shall, within 30 days after notifying EPA or receiving notice from EPA under this Paragraph, secure and submit to EPA for approval a proposal for a revised or alternative financial assurance mechanism that satisfies the requirements of this Section. EPA may extend this deadline for such time as is reasonably necessary for the affected Respondent, in the exercise of due diligence, to secure and submit to EPA a proposal for a revised or alternative financial assurance mechanism, not to exceed 60 days. Respondents shall follow the procedures of ¶ 93 (Modification of Amount, Form, or Terms of Financial Assurance) in seeking approval of, and submitting documentation for, the revised or alternative financial assurance mechanism. Respondents' inability to secure financial assurance in accordance with this Section does not excuse performance of any other obligation under this Settlement.

## **92. Access to Financial Assurance**

- a. If EPA issues a notice of implementation of a Work Takeover under ¶ 68.b, then, in accordance with any applicable financial assurance mechanism and/or related standby funding commitment, EPA is entitled to: (1) the performance of the Work; and/or (2) require that any funds guaranteed be paid in accordance with ¶ 92.d.
- b. If EPA is notified by the issuer of a financial assurance mechanism that it intends to cancel such mechanism, and the affected Respondent fails to provide an alternative financial assurance mechanism in accordance with this Section at least 30 days prior to the cancellation date, the funds guaranteed under such mechanism must be paid prior to cancellation in accordance with ¶ 92.d.
- c. If, upon issuance of a notice of implementation of a Work Takeover under ¶ 68.b, either: (1) EPA is unable for any reason to promptly secure the resources guaranteed under any applicable financial assurance mechanism [and/or related standby funding commitment], whether in cash or in kind, to continue and complete the Work; or (2) the financial assurance is a demonstration or guarantee under ¶ 87.e or ¶ 87.f or ¶ 87.g, then EPA is entitled to demand an amount, as determined by EPA, sufficient to cover the cost of the remaining Work to be performed. Respondents shall, within 30 days of such demand, pay the amount demanded as directed by EPA. EPA will accept payment by each of the Respondents of a share of such costs, the total of which will be 100% of the demanded costs. In the event there is a shortfall in the total payment demanded by EPA, all three Respondents will be deemed out of compliance with the payment requirement for remaining Work. Payments shall be made within 30 days of the demand except for amounts exceeding the current budget authority of the responsible departments for the Respondents. For amounts exceeding current budget authority, Respondents shall immediately initiate the steps necessary to obtain sufficient budget authority. Payment of the remaining amounts shall be made no later than 30 days after the necessary budget authority has been enacted

and in any event within 120 days of the demand unless an alternative payment schedule is approved by EPA.

d. Any amounts required to be paid under this ¶ 92 shall be, as directed by EPA: (i) paid to EPA in order to facilitate the completion of the Work by EPA or by another person; or (ii) deposited into an interest-bearing account, established at a duly chartered bank or trust company that is insured by the FDIC, in order to facilitate the completion of the Work by another person. If payment is made to EPA, EPA may deposit the payment into the EPA Hazardous Substance Superfund or into the Harbor Island Special Account within the EPA Hazardous Substance Superfund to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

e. All EPA Work Takeover costs not paid under this ¶ 92 must be reimbursed as Future Response Costs under Section XII (Payments for Response Costs).

**93. Modification of Amount, Form, or Terms of Financial Assurance.**

Respondents may submit, on any anniversary of the Effective Date or at any other time agreed to by the Parties, a request to reduce the amount, or change the form or terms, of the financial assurance mechanism. Any such request must be submitted to EPA in accordance with ¶ 91 and must include an estimate of the cost of the remaining Work, an explanation of the bases for the cost calculation, and a description of the proposed changes, if any, to the form or terms of the financial assurance. EPA will notify Respondents of its decision to approve or disapprove a requested reduction or change pursuant to this Paragraph. Respondents may reduce the amount of the financial assurance mechanism only in accordance with: (a) EPA's approval; or (b) if there is a dispute, the agreement or written decision resolving such dispute under Section XIII (Dispute Resolution). Respondents may change the form or terms of the financial assurance mechanism only in accordance with EPA's approval. Any decision made by EPA on a request submitted under this Paragraph to change the form or terms of a financial assurance mechanism shall not be subject to challenge by Respondents pursuant to the dispute resolution provisions of this Settlement or in any other forum. Within 30 days after receipt of EPA's approval of, or the agreement or decision resolving a dispute relating to, the requested modifications pursuant to this Paragraph, Respondents shall submit to EPA documentation of the reduced, revised, or alternative financial assurance mechanism in accordance with ¶ 91.

**94. Release, Cancellation, or Discontinuation of Financial Assurance.**

Respondents may release, cancel, or discontinue any financial assurance provided under this Section only: (a) if EPA issues a Notice of Work Completion under Paragraph 5.17 of the SOW; (b) in accordance with EPA's approval of such release, cancellation, or discontinuation; or (c) if there is a dispute regarding the release, cancellation, or discontinuance of any financial assurance, in accordance with the agreement or final decision resolving such dispute under Section XIII (Dispute Resolution).

## **XXIV. INTEGRATION/APPENDICES**

95. This Settlement and its appendices constitute the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Settlement. The parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Settlement. The following appendices are attached to and incorporated into this Settlement:

- a. Appendix A is the description and/or map of the EWOU.
- b. Appendix B is the SOW.

## **XXV. MODIFICATION**

96. The OSC/RPM may modify any plan, schedule, or SOW in order to carry out the RD, in writing or by oral direction. Any oral modification will be memorialized in writing by EPA promptly but shall have as its effective date the date of the OSC/RPM's oral direction. Any other requirements of this Settlement may be modified in writing by mutual agreement of the parties.

97. If Respondents seek permission to deviate from any approved work plan, schedule, or SOW, Respondents' Project Coordinator shall submit a written request to EPA for approval outlining the proposed modification and its basis. Respondents may not proceed with the requested deviation until receiving oral or written approval from the OSC/RPM pursuant to ¶ 96.

98. No informal advice, guidance, suggestion, or comment by the OSC/RPM or other EPA representatives regarding any deliverable submitted by Respondents shall relieve Respondents of their obligation to obtain any formal approval required by this Settlement, or to comply with all requirements of this Settlement, unless it is formally modified.

## **XXVI. EFFECTIVE DATE**

99. This Settlement shall be effective on the day the Settlement is signed by the Remedial Branch Manager for Region 10 of EPA.

**IT IS SO AGREED AND ORDERED;**

**U.S. ENVIRONMENTAL PROTECTION AGENCY:**

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Date

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Kira Lynch, Manager  
Remedial Cleanup Branch  
Superfund and Emergency Management Division  
Region 10

Signature Page for Settlement regarding the East Waterway Operable Unit of the Harbor Island  
Superfund Site

**FOR: PORT of SEATTLE**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Stephen P. Metruck  
Executive Director

Signature Page for Settlement regarding the East Waterway Operable Unit of the Harbor Island  
Superfund Site

**FOR: CITY of SEATTLE**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Ann Davison  
Seattle City Attorney

Signature Page for Settlement regarding the East Waterway Operable Unit of the Harbor Island  
Superfund Site

**FOR: KING COUNTY**

\_\_\_\_\_  
Date

\_\_\_\_\_  
Shannon Braddock  
King County Executive

**Appendix A to Administrative Settlement Agreement and Order on Consent for Remedial Design in CERCLA Docket No. 10-2025-0125**



**STATEMENT OF WORK**  
**Remedial Design**  
**East Waterway Operable Unit**  
**HARBOR ISLAND SUPERFUND SITE**  
**Seattle, King County, State of Washington**  
**EPA Region 10**

*Appendix B to the Administrative Settlement Agreement and Order on Consent for Remedial Design in CERCLA Docket No. 10-2025-0125*

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## 1. INTRODUCTION

- 1.1 Purpose of the SOW.** This Statement of Work (SOW) sets forth the procedures and requirements for implementing the Design Work at the East Waterway Operable Unit (EWOU) of the Harbor Island Superfund Site. This (SOW) sets forth the procedures and requirements for implementing the Administrative Settlement Agreement and Order on Consent for Remedial Design (Settlement) of the EWOU. (CERCLA Docket No. 10-2025-0125).
- 1.2** The Scope of the Remedy includes the actions described in Part 1 of the EWOU Interim Record of Decision (IROD), including the removal of contaminated sediment from a majority of the waterway, along with smaller areas of capping, in-situ treatment, and enhanced or monitored natural recovery. EPA did not select cleanup levels in the EWOU IROD. Institutional controls in the form of fish advisories and education, and waterway and land use restrictions will be implemented to further limit exposure to contamination to protect the interim remedy.
- 1.3** The major components of the interim remedy include the following.
- (a) Cleanup of approximately 121 acres of contaminated sediment consisting of:
    - i. Dredging 99 acres in open water portions of the EWOU. Approximately 940,000 cubic yards of sediment would be dredged and disposed off-site in accordance with regulations
    - ii. Capping 7 acres
    - iii. In situ, (in place on-site) treatment in 12 acres under docks and piers using activated carbon or other organic contaminant-sequestering agents
    - iv. Enhanced natural recovery in 3 acres under the West Seattle Bridge/Spokane Street Bridge corridor where there is limited access for barge-mounted dredges
    - v. Monitored natural recovery in 36 acres where there will be no dredging, capping or ENR
    - vi. Placement of a residual management layer in all dredged and adjacent areas where dredge residuals may settle
    - vii. Institutional controls to further limit exposures and protect the integrity of the remedy
  - (b) Construction monitoring and confirmation sampling will be conducted during construction implementation to ensure that the interim remedy is built according to specifications. Short term monitoring will be conducted after construction to

monitor progress and effectiveness of the interim remedial action and of ongoing source control actions.

- (c) A source control sufficiency assessment for lateral loading will be conducted and finalized prior to proceeding with remedial action. These data will provide information needed to develop cleanup levels.
- 1.4** EPA anticipates developing and selecting cleanup levels in a future decision document based on data collected during and after construction of the interim action.
- 1.5** The terms used in this SOW that are defined in CERCLA, in regulations promulgated under CERCLA, or in the Settlement, have the meanings assigned to them in CERCLA, in such regulations, or in the Settlement, except that the term “Paragraph” or “¶” means a paragraph of the SOW, and the term “Section” means a section of the SOW, unless otherwise stated.

## **2. COMMUNITY INVOLVEMENT**

### **2.1 Community Involvement Responsibilities**

- (a) EPA has the lead responsibility for developing and implementing community involvement activities at the EWOU. Previously during the SRI/FS phase and during development of the proposed plan, EPA drafted a Community Involvement Plan (CIP) for the Site. Pursuant to 40 C.F.R. § 300.435(c), EPA shall review the Draft CIP and determine whether it should be revised and finalized to describe further public involvement activities during the Design Work that are not already addressed or provided for in the existing Draft CIP. If requested, EPA can hold public information sessions on different stages of the design work. Respondents will provide supporting information for EPA’s community involvement work, including but not limited to high-definition photographs, graphics and presentation support.
- (b) If requested by EPA, Respondents shall participate in community involvement activities, including participation in (1) the preparation of information regarding the Design Work for dissemination to the public, with consideration given to including mass media and/or Internet notification, and (2) public meetings that may be held or sponsored by EPA to explain activities at or relating to the EWOU. Respondents’ support of EPA’s community involvement activities may include providing online access to initial submissions and updates of deliverables to (1) any Community Advisory Groups, (2) any Technical Assistance Grant recipients and their advisors, and (3) other entities to provide them with a reasonable opportunity for review and comment. EPA may describe in the draft and final CIP, Respondents’ responsibilities for community involvement activities. All community involvement activities conducted by Respondents at EPA’s request are subject to EPA’s oversight. Upon EPA’s request, Respondents shall establish a community information repository at or near the EWOU to house one copy of the EWOU administrative record.

- (c) Respondents' CI Coordinator. If requested by EPA, Respondents shall, within 15 days, designate and notify EPA of Respondents' Community Involvement Coordinator (Respondents' CI Coordinator). Respondents may hire a contractor for this purpose. Respondents' notice must include the name, title, and qualifications of the Respondents' CI Coordinator. Respondents' CI Coordinator is responsible for providing support regarding EPA's community involvement activities, including coordinating with EPA's CI Coordinator regarding responses to the public's inquiries about the EWOU.

### **3. COORDINATION AND SUPERVISION**

#### **3.1 Selection of Project Coordinators and Supervising Contractor**

- (a) Respondents' Project Coordinator and Supervising Contractor each: (i) must have sufficient technical expertise to carry out their responsibilities; (ii) may not be attorneys representing any Respondent in this matter; (iii) may not be the same person; and (iv) may not have an unwaivable conflict of interest, regarding the project. The Supervising Contractor must have a quality assurance system that complies with the most recent version of Quality Systems for Environmental Data and Technology Programs -- Requirements with Guidance for Use (American National Standard), ANSI/ASQC E4 (Feb. 2014)
- (b) Respondents shall notify EPA, within 14 days after the Effective Date, of the name, title, contact information, and qualifications of their proposed Project Coordinator and Supervising Contractor.
- (c) EPA shall issue a notice of disapproval and/or authorization to proceed regarding any proposed Project Coordinator and Supervising Contractor, as applicable. Any EPA disapproval must be based on criteria under ¶ 3.1(a).
- (d) Respondents shall follow the procedures of ¶ 3.1.(a) through (c) to: (1) to select an alternate Project Coordinator or Supervising Contractor, as applicable, if EPA issues a notice of disapproval; or (2) to change their Project Coordinator or Supervising Contractor.
- (e) Respondents may assign other representatives, including other contractors, to assist in coordinating the Work.

**3.2** EPA has designated Ravi Sanga as its Remedial Project Manager (RPM). EPA may, with notice to Respondents, designate an alternate RPM. EPA may designate other representatives including contractors or consultants to oversee the Work.

**3.3** The State of Washington (State) shall designate and notify the Parties of its Project Coordinator. The State may designate other representatives including contractors or consultants to oversee the Work.

#### **3.4 Project Coordinator and RPM Responsibilities**

- (a) Respondents' Project Coordinator shall communicate with the RPM at least monthly.
- (b) The RPM has the authorities described in the NCP, 40 C.F.R. § 300.120.
- (c) The State's Project Coordinator may participate in any meeting or inspection in which the RPM participates. Respondents shall notify the State reasonably in advance of any such meetings or inspections.

#### 4. SEAFOOD CONSUMPTION INSTITUTIONAL CONTROLS

Respondents shall cover the costs to expand implementation of US EPA's Institutional Control Implementation and Assurance Plan (ICIAP) for Seafood Consumption at the Lower Duwamish Waterway Superfund Site outreach activities to include applicable areas of the EWOU not currently covered (e.g., technical and educational materials regarding EWOU) through the date of EPA approval of the final (100%) Remedial Design for EWOU. Implementation of this plan is being lead through a cooperative agreement between EPA and Seattle – King County Public Health. Expansion of the LDW Seafood IC program to include areas beyond the EW Spokane Street Bridge will be per EPA direction.

#### 5. REMEDIAL DESIGN

The remedial design is generally defined as those activities to be undertaken to develop final construction plans and specifications, general provisions, special requirements, and all other technical documentation necessary to solicit bids for construction of the remedial action. The remedial design also includes identification of the required documentation to be provided by the construction contractor, subject to approval by EPA during the construction phase, and annotated outlines, conceptual plans, or initial drafts of certain documents to be finalized after construction.

Respondents shall design the selected remedy in the IROD as it applies to the EWOU, except the Early Action Areas (Slip 36 and Terminal 25 South).

Remedial Design will progress from the preliminary design phase (30%) through 60%, 90%, and final design (100%), with deliverables as identified below and in the Remedial Design Work Plan.

**5.1 RD Workplan.** Respondents shall submit a RD Workplan for comment and approval. The RD Workplan must include:

- (a) Plans for implementing all RD activities identified in this SOW to develop the RD;
- (b) A description of the overall management strategy for performing the RD, including a proposal for phasing of design.
- (c) A description of the proposed general approach to contracting, construction, maintenance, and confirmational monitoring and water quality monitoring and if

multiple design packages and/or construction contracts will be used to implement the IROD remedy.

- (d) A description of the responsibility and authority of all organizations and key personnel involved with the development of the RD;
- (e) Discussion of existing data
- (f) A discussion of additional challenges, data needs, investigations or retesting necessary to initiate or complete the remedial design (e.g., how to characterize and remediate areas with structural or access restrictions);
- (g) A Pre-Design Investigations (PDI) Work Plan, as specified in ¶ 5.3(a).
- (h) Description of how source control efforts and recontamination potential will be evaluated to complete a Source Control Sufficiency Assessment;
- (i) Description of proposed pre-design investigation approach and sampling to establish baseline conditions;
- (j) Description of general approach to support development of site-specific background.

**5.2.** Respondents shall communicate regularly with EPA to discuss design issues as necessary, as directed or determined by EPA.

**5.3. Pre-Design Investigation.** The purpose of the Pre-Design Investigation (PDI) is to address data needs for completion of design by conducting field investigations.

- (a) **PDI Work Plan.** Respondents shall submit a PDI Work Plan (PDIWP) for EPA comment and approval. The PDIWP must include:
  - i. An evaluation and summary of existing data and description of data gaps;
  - ii. A sampling plan including media to be sampled, contaminants or parameters for which sampling will be conducted, location (areal extent and depths), and number of samples;
  - iii. Cross references to quality assurance/quality control (QA/QC) requirements set forth in the Quality Assurance Project Plan (QAPP) as described in ¶ 7.7(c), ¶ 7.7(d).
- (b) EPA may require Respondents to supplement the PDIER and/or to perform additional pre-design studies. Should additional data be needed to support the design, a PDI QAPP addendum shall be submitted.

**5.4** PDI Evaluation Reports (PDIER) Phase I and II. This report shall include: a summary of the investigations performed; summary of investigation results; narrative interpretation of

data and results, with supporting figures and tables; and identification of any remaining data gaps needed to support the design.

**5.5** Sitewide Baseline Conditions Plan. The purpose of the Sitewide Baseline Conditions Plan (SWBCP) is to establish baseline information regarding the contaminants of concern in affected media at the EWOU before implementation of the RA. This will provide a basis for comparison with future monitoring events to assess performance standards. The SWBCP must include:

- (a) Description of data collection approach for baseline and associated short-term monitoring for evaluating progress and effectiveness of the interim remedy;
- (b) Description of the environmental media to be monitored;
- (c) Description of the data collection parameters, including existing and proposed monitoring devices and locations, schedule of baseline monitoring event, analytical parameters to be monitored, and analytical methods employed;
- (d) Description of how baseline data will be analyzed, interpreted, and reported, including how baseline monitoring will be compared with short-term monitoring results to evaluate interim remedy effectiveness; and
- (e) Cross references to quality assurance/quality control (QA/QC) requirements set forth in the Quality Assurance Project Plan (QAPP) as described in ¶ 7.7(c), ¶ 7.7(d).

**5.6** Sitewide Baseline Conditions Data Report. Respondents shall submit a Sitewide Baseline Conditions Data Report (SWBDR) for EPA comment and approval. This report must include:

- (a) Summary of the investigations performed;
- (b) Summary of investigation results;
- (c) Summary of validated data (i.e., tables and graphics);
- (d) Data validation reports and laboratory data reports;
- (e) Narrative interpretation of data and results;
- (f) Results of statistical and modeling analyses; and
- (g) Photographs documenting the work conducted.

**5.7** **Source Control Sufficiency Assessment.** The purpose of The Source Control Sufficiency Assessment is to provide EPA the ability to determine if sources of contaminants to the EW are sufficiently controlled such that in-waterway sediment cleanup can begin.

- (a) The Source Control Sufficiency Assessment shall consider potential impacts from, and assess data gaps for, a range of potential sources, including but not limited to upland pathways (direct discharges, groundwater, soil, riverbank, and overwater). The components of the Source Control Sufficiency Assessment Report shall include:
- i. Description of the EWOU setting and the upland areas being evaluated and an overview of the remainder of the report;
  - ii. A CSM that describes the geographically relevant upland (direct discharges, groundwater, soil, riverbank and overwater) sources of contamination, contaminants of concern and migration pathways into the EWOU;
  - iii. A summary of available information regarding the source control status of direct discharges, groundwater, soil, riverbank and overwater sources of COCs into the EWOU that may affect achieving the remedial action objective;
  - iv. An assessment of the degree to which future conditions including flooding and high flow events may cause recontamination on previously remediated surfaces, to the extent not already incorporated in the design;
  - v. The results of the Source Control Sufficiency Assessment that includes evaluation of the sufficiency of upland and in-water source controls to reduce the potential for re-contaminating the selected remedy following implementation. The assessment will consider the general magnitude of any potential recontamination effects and discuss implications to the selected remedy. The discussion will also present the limitations of the assessment approaches and any remaining data gaps;
  - vi. Identify data gaps, if any; and
  - vii. Conclusions and Recommendations.
- (b) EPA will determine whether sources are sufficiently controlled and may require Source Control Sufficiency Assessment updates as new data are obtained, and source control actions are implemented.

**5.8 Institutional Controls Implementation and Assurance Plan (ICIAP).** An outline of the contents of the ICIAP will be included in the 60% RD.

### **5.9 Treatability Study**

- (a) If needed (based on approved RDWP or PDIWP), Respondents shall perform a Treatability Study (TS).

- (b) Respondents shall submit a TS Work Plan (TSWP) for EPA comment and approval. Respondents shall prepare the TSWP in accordance with EPA's Guide for Conducting Treatability Studies under CERCLA, Final (Oct. 1992), as supplemented for RD by the Remedial Design/Remedial Action Handbook, EPA 540/R-95/059 (June 1995).
- (c) Following completion of the TS, Respondents shall submit a TS Evaluation Report for EPA comment and approval.
- (d) EPA may require Respondents to supplement the TS Evaluation Report and/or to perform additional treatability studies.

**5.10 Preliminary (30%) RD.** Respondents shall submit a Preliminary (30%) RD for EPA's comment. The Preliminary RD must include:

- (a) A basis of design report providing descriptions of the analyses conducted to select the design approach, including a summary and detailed justification of design assumptions, restrictions and objectives to be used in design of the selected remedy, and at least one example of essential supporting calculations for each significant or unique design calculation, such as cap thickness or propeller wash modeling);
- (b) Preliminary drawings and outline of specifications;
- (c) Descriptions of permit requirements, if applicable;
- (d) A description of monitoring and control measures to protect human health and the environment, such as air monitoring and dust suppression, during the RA;
- (e) A schedule for Remedial Action; and
- (f) Applicable supporting deliverables as described in ¶ 7.7.

**5.11 Intermediate (60%) RD.** Respondents shall submit the Intermediate (60%) RD for EPA's comment. The Intermediate RD must: (a) be a continuation and expansion of the Preliminary RD; (b) address EPA's comments regarding the Preliminary RD; and (c) include the same elements as are required for the Preliminary (30%) RD.

Additional elements will include an outline of a Construction Quality Assurance Plan (CQAP); outline of an Institutional Controls Implementation and Assurance Plan; a draft Community Impacts Mitigation Plan; a draft Biological Assessment; an outline of a Short-Term Monitoring Plan, including the approach to support development of site-specific background and for updating upriver loading conditions; and a draft Compensatory Mitigation Plan, if necessary.

**5.12 Pre-Final (90%) RD.** Respondents shall submit the Pre-final (90%) RD for EPA's comment and approval. The Pre-final RD must be a continuation and expansion of the previous design submittal and must address EPA's comments regarding the Intermediate

RD. The Pre-final RD will serve as the approved Final (100%) RD if EPA approves the Pre-final RD without comments. The Pre-final RD must include:

- (a) A complete set of construction drawings and specifications consistent with EPA's Superfund Remedial Design and Remedial Action Guidance (OSWER Directive No. 9355.0-04B) that are: (1) certified by a registered professional engineer; (2) suitable for procurement; and (3) follow the Construction Specifications Institute's MasterFormat (or equivalent) and meet other relevant standards for design of sediment cleanup;
- (b) A survey and engineering drawings showing existing EWOU features, such as property borders, easements, and EWOU conditions;
- (c) Pre-Final versions of the same elements and deliverables as are required for the [Preliminary/Intermediate] RD;
- (d) A specification for all necessary construction documentation including but not limited to photographic, bathymetric surveys documentation of the RA;
- (e) Updates of all supporting deliverables required to accompany the Preliminary (30%) RD; and
- (f) Engineer's capital cost estimate and estimated construction project schedule.

**5.13 Final (100%) RD.** Respondents shall submit the Final (100%) RD for EPA ultimate approval. The Final RD must address EPA's comments on the Pre-final RD and must include final versions of all Pre-final RD deliverables. The ICIAP and Short-Term Monitoring Plan will remain as annotated outlines in the Final RD.

**5.14 Guidance Documents.** Respondents shall use EPA guidance documents as the basis for development of work plans, quality assurance project plans, sampling plans, water quality monitoring plans, and other documents. The remedial design and supporting deliverables shall be consistent with current technical guidance, including but not limited to Contaminated Sediment Remediation Guidance for Hazardous Waste Sites, 2005; Guidance for In Situ Subaqueous Capping of Contaminated Sediments, 2012; Contaminated Sediments Remediation: Remedy Selection for Contaminated Sediments, 2014, and shall meet professional engineering standards for sediment remediation sites or most recent versions.

### **5.15 Emergency Response and Reporting**

- (a) **Emergency Response and Reporting.** If any event occurs during performance of the Work that causes or threatens to cause a release of Waste Material on, at, or from the EWOU and that either constitutes an emergency situation or that may present an immediate threat to public health or welfare or the environment, Respondents shall: (1) immediately take all appropriate action to prevent, abate, or minimize such release or threat of release; (2) immediately notify the authorized EPA RPM (as specified in ¶ 3.2 orally); and (3) take such actions in

consultation with the authorized EPA officer and in accordance with all applicable provisions of the Health and Safety Plan, and any other deliverable approved by EPA under the SOW.

- (b) **Release Reporting.** Upon the occurrence of any event during performance of the Work that Respondents are required to report pursuant to Section 103 of CERCLA, 42 U.S.C. § 9603, or Section 304 of the Emergency Planning and Community Right-to-know Act (EPCRA), 42 U.S.C. § 11004, Respondents shall immediately notify the authorized EPA officer orally.
- (c) The “authorized EPA officer” for purposes of immediate oral notifications and consultations under ¶ 5.15(a) is the EPA RPM, the EPA Emergency Response Unit, Region 10 (if the EPA RPM is unavailable).
- (d) For any event covered by ¶ 5.15 Respondents shall: (1) within 14 days after the onset of such event, submit a report to EPA describing the actions or events that occurred and the measures taken, and to be taken, in response thereto; and (2) within 30 days after the conclusion of such event, submit a report to EPA describing all actions taken in response to such event.
- (e) The reporting requirements under ¶ 5.15(a) are in addition to the reporting required by CERCLA § 103 or EPCRA § 304.

**5.16 Off-Site Shipments.** Respondents may ship Investigation Derived Waste (IDW) from the Site to an off-Site facility only if they comply with Section 121(d)(3) of CERCLA, 42 U.S.C. § 9621(d)(3), 40 C.F.R. § 300.440, EPA’s Guide to Management of Investigation Derived Waste, OSWER 9345.3-03FS (Jan. 1992), and any IDW-specific requirements contained in the IROD. Wastes shipped off-Site to a laboratory for characterization, and RCRA hazardous wastes that meet the requirements for an exemption from RCRA under 40 CFR § 261.4(e) shipped off-site for treatability studies, are not subject to 40 C.F.R. § 300.440.

**5.17 Notice of Work Completion.** When EPA determines, after EPA’s review of the Final 100% RD under ¶ 5.13 (Final (100%) RD), that all Work has been fully performed in accordance with this Settlement, with the exception of any continuing obligations as provided in ¶ 5.17 EPA will provide written notice to Respondents. If EPA determines that any such Work has not been completed in accordance with this Settlement, EPA will notify Respondents, provide a list of the deficiencies, and require that Respondents modify the 100% RD in order to correct such deficiencies.

Issuance of the Notice of Work Completion does not affect the following continuing obligations set forth in the ASAOC: (1) obligations under Sections **VIII** (Property Requirements), **IX** (Access to Information), and **X** (Record Retention); and (3) reimbursement of EPA’s Future Response Costs under Section **XII** (Payment of Response Costs) of the Settlement.

## 6. REPORTING

- 6.1 Progress Reports.** Respondents shall submit progress reports to EPA on a quarterly basis, or as otherwise requested by EPA, from the date of receipt of EPA's approval of the RDWP until issuance of Notice of Work Completion pursuant to ¶ 5.17 unless otherwise directed in writing by EPA's Project Coordinator. The reports must cover all activities that took place during the prior reporting period, including:
- (a) The actions that have been taken toward achieving compliance with the Settlement;
  - (b) A summary description of sampling, tests, and all other data received or generated by Respondents;
  - (c) A description of all deliverables that Respondents submitted to EPA;
  - (d) A description of all activities scheduled for the next six weeks;
  - (e) Information regarding percentage of completion, unresolved delays encountered or anticipated that may affect the future schedule for implementation of the Work, and a description of efforts made to mitigate those delays or anticipated delays;
  - (f) A description of any modifications to the work plans or other schedules that Respondents have proposed or that have been approved by EPA; and
  - (g) A description of all activities undertaken in support of the current version of the Community Involvement Plan (CIP) during the reporting period and those to be undertaken in the next six weeks.
- 6.2 Notice of Progress Report Schedule Changes.** If the schedule for any activity described in the Progress Reports, including activities required to be described under ¶ 6.1(a), changes, Respondents shall notify EPA.

## 7. DELIVERABLES

- 7.1 Applicability.** Respondents shall submit deliverables for both EPA comment and approval as specified in the SOW. All deliverables shall follow the required Technical Specifications of Paragraph 7.4. Paragraph 7.6 (Approval of Deliverables) applies to any deliverable that is required to be submitted for EPA approval.
- 7.2 Electronic Deliverables.** All deliverables under this SOW must be submitted electronically unless otherwise specified.
- 7.3 General Requirements for Deliverables.** All deliverables must be submitted by the deadlines in the RD Schedule, as applicable. Respondents shall submit all deliverables to EPA in electronic form. Technical specifications for sampling and monitoring data and spatial data are addressed in ¶ 7.4. All other deliverables shall be submitted to EPA in the electronic form specified by the EPA Project Coordinator. If any deliverable includes

maps, drawings, or other exhibits that are larger than 8.5” by 11”, Respondents shall also provide EPA with paper copies of such exhibits, as requested.

#### **7.4 Technical Specifications**

- (a) Sampling and monitoring data should be submitted in standard regional Electronic Data Deliverable (EDD) format compatible with Scribe. Other delivery methods may be allowed if electronic direct submission presents a significant burden or as technology changes.
- (b) Spatial data, including spatially-referenced data and geospatial data, should be submitted in accordance with the National Geospatial Deliverable Standard ([www.epa.gov/sites/default/files/2020/10/documents/nationalgeospatialdeliverablestandard.pdf](http://www.epa.gov/sites/default/files/2020/10/documents/nationalgeospatialdeliverablestandard.pdf)); and as projected coordinates in Washington State Plane North format using North American Datum 1983 (NAD83) or World Geodetic System 1984 (WGS84) as the datum. If applicable, submissions should include the collection method(s). Unprojected geographic coordinates in decimal degree will also be included at EPA request but must be documented. Spatial data should be accompanied by metadata, and such metadata should be compliant with the Federal Geographic Data Committee (FGDC) Content Standard for Digital Geospatial Metadata and its EPA profile, the EPA Geospatial Metadata Technical Specification. An add-on metadata editor for ESRI software, the EPA Metadata Editor (EME), complies with these FGDC and EPA metadata requirements and is available at <https://www.epa.gov/geospatial/epa-metadata-editor>.
- (c) Each file must include an attribute name for each site unit or sub-unit submitted. Consult <https://www.epa.gov/geospatial/geospatial-policies-and-standards> for any further available guidance on attribute identification and naming.

#### **7.5 Certification.** All deliverables that require compliance with this paragraph must be signed (or electronically signed) by Respondents’ Project Coordinator, or other responsible official of Respondents, and must contain the following statement:

I certify under penalty of perjury that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I have no personal knowledge that the information submitted is other than true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

#### **7.6 Approval of Deliverables**

- (a) **Initial Submissions**

- i. After review of any deliverable that is required to be submitted for EPA approval under the Settlement or the SOW, EPA shall: (i) approve, in whole or in part, the submission; (ii) approve the submission upon specified conditions such as addressing EPA comments; (iii) disapprove, in whole or in part, the submission; or (iv) any combination of the foregoing.
  - ii. EPA also may modify the initial submission to cure deficiencies in the submission if: (i) EPA determines that disapproving the submission and awaiting a resubmission would cause substantial disruption to the Work; or (ii) previous submission(s) have been disapproved due to material defects and the deficiencies in the initial submission under consideration indicate a bad faith lack of effort to submit an acceptable deliverable.
- (b) **Resubmissions.** Upon receipt of a notice of disapproval under ¶ 7.6(a) (Initial Submissions), or if required by a notice of approval upon specified conditions under ¶ 7.6(a)(i)(ii), Respondents shall, within 30 days or such longer time as specified by EPA in such notice, correct the deficiencies and resubmit the deliverable for approval. After review of the resubmitted deliverable, EPA may: (1) approve, in whole or in part, the resubmission; (2) approve the resubmission upon specified conditions; (3) modify the resubmission; (4) disapprove, in whole or in part, the resubmission, requiring Respondents to correct the deficiencies; or (5) any combination of the foregoing.

**7.7 Implementation Supporting Deliverables.** Respondents shall submit each of the following supporting deliverables for EPA approval, except as specifically provided. Respondents shall develop the deliverables in accordance with all applicable regulations, guidances and policies (see Section 10 (References)). Respondents shall update each of these supporting deliverables as necessary or appropriate during the course of the Work, and/or as requested by EPA.

- (a) **Health and Safety Plan.** The Health and Safety Plan (HASP) describes all activities to be performed to protect on site personnel and area residents from physical, chemical, and all other hazards posed by the Work. Respondents shall develop the HASP in accordance with EPA's Emergency Responder Health and Safety and Occupational Safety and Health Administration (OSHA) requirements under 29 C.F.R. §§ 1910 and 1926. The HASP required by this RD SOW should cover RD activities. EPA does not approve the HASP but will review it and provide comments to the Respondents to ensure that all necessary elements are included and that the plan provides for the protection of human health and the environment.
- (b) **Emergency Response Plan.** Specifications for an Emergency Response Plan (ERP) shall be submitted as part of the 30/60/90 and 100% design submittal to address requirements for procedures in the event of an accident or emergency at the EWOU (for example, power outages, water impoundment failure, treatment plant failure, slope failure, etc.). The ERP must include:

- i. Name of the person or entity responsible for responding in the event of an emergency incident;
  - ii. Plan and date(s) for meeting(s) with the local community, including local, State, and federal agencies involved in the cleanup, as well as local emergency squads and hospitals;
  - iii. Spill Prevention, Control, and Countermeasures (SPCC) Plan (if applicable), consistent with the regulations under 40 C.F.R. Part 112, describing measures to prevent, and contingency plans for, spills and discharges;
  - iv. Notification activities in accordance with ¶ 5.15(a) (Release Reporting) in the event of a release of hazardous substances requiring reporting under Section 103 of CERCLA, 42 U.S.C. § 9603, or Section 304 of the Emergency Planning and Community Right-to-know Act (EPCRA), 42 U.S.C. § 11004; and
  - v. A description of all necessary actions in the event of an occurrence during the performance of the Work that causes or threatens a release of Waste Material from the EWOU that constitutes an emergency or may present an immediate threat to public health or welfare or the environment.
- (c) **Quality Assurance Project Plan.** The QAPP must include a detailed explanation of Respondents’ quality assurance, quality control, and chain of custody procedures for all treatability, design, compliance, and monitoring samples. Respondents shall develop the QAPP in accordance with EPA Directive CIO 2105.1 (Environmental Information Quality Policy, 2021), the most recent version of Quality Management Systems for Environmental Information and Technology Programs – Requirements with Guidance for Use, ASQ/ANSI E-4 (Feb. 2014, and Guidance for Quality Assurance Project Plans, EPA QA/G-5, EPA Office of Environmental Information (Dec. 2002). Respondents shall collect, produce, and evaluate all environmental information at the EWOU in accordance with the approved QAPP.
- (d) **PDI Quality Assurance Project Plan (QAPP) and Baseline Conditions QAPP.** A QAPP addresses sample collection, analysis and data handling. The QAPP must include a field sampling plan, maps of sampling locations, and an explanation of Respondents data quality objectives, quality assurance, quality control, and chain of custody procedures for all treatability, design, compliance, and monitoring samples.
- (e) **Community Impacts Mitigation Plan (“CIMP”).** The CIMP describes all activities to be performed: (1) to reduce and manage the impacts from remedy implementation (e.g., air emissions, traffic, noise, odor, temporary or permanent relocation) to residential areas, schools, playgrounds, healthcare facilities, or recreational or impacted public areas (“Community Areas”) from and during

remedy implementation, (2) to conduct monitoring in Community Areas of impacts from remedy implementation, (3) to expeditiously communicate validated remedy implementation monitoring data, (4) to make adjustments during remedy implementation in order to further reduce and manage impacts from remedy implementation to affected Community Areas, (5) to expeditiously restore community resources damaged during remediation such as roads and culverts. The CIMP should contain information about impacts to Community Areas that is sufficient to assist the RPM in performing the evaluations recommended under the Superfund Community Involvement Handbook, OLEM 9230.0-51 (March 2020), pp. 53-56.

- (f) **Construction Quality Assurance/Quality Control Plan (CQA/QCP).** The purpose of the Construction Quality Assurance Plan (CQAP) is to describe planned and systemic activities that provide confidence that the RA construction will satisfy all plans, specifications, and related requirements, including quality objectives. The purpose of the CQCP is to describe the activities to verify that RA construction has satisfied all plans, specifications, and related requirements, including quality objectives. The CQA/QCP must:
- i. Identify, and describe the responsibilities of, the organizations and personnel implementing the CQA/QCP;
  - ii. Describe the construction PS required to be met to achieve Completion of the RA;
  - iii. Describe the activities and quality control elements required of the Contractor in the technical specifications to meet the construction Performance Standards;
  - iv. Describe verification activities, such as inspections, sampling, testing, monitoring, and production controls, under the CQA/QCP;
  - v. Describe industry standards and technical specifications used in implementing the CQA/QCP;
  - vi. Describe procedures for tracking construction deficiencies from identification through corrective action;
  - vii. Describe procedures for documenting all CQA/QCP activities; and
  - viii. Describe procedures for retention of documents and for final storage of documents.

## 8. SCHEDULES

- 8.1 Applicability and Revisions.** All deliverables and tasks required under this SOW must be submitted or completed by the deadlines or within the time durations listed in the RD Schedule set forth below. Respondents may submit proposed revised RD Schedules for

EPA approval. Upon EPA’s approval, the revised RD Schedules supersede the RD Schedules set forth below, and any previously approved RD Schedules.

General. Unless otherwise approved by EPA, submittal revisions following initial EPA comments shall be due 30 days from receipt of the comments.

**8.2 RD Schedule – all days are in calendar days.**

<b>Item</b>	<b>Description of Deliverable, Task</b>	<b>¶ Ref.</b>	<b>Deadline</b>
1	Notification of Respondent’s Supervising Contractor and Project Coordinator	3.1(b)	14 days after Effective Date of the Settlement
2	Respondent’s issuance of Notice to Proceed to Remedial Design Contractor	3.1(a)	180 days from ASAOC effective date
3	Draft Remedial Design Work Plan (RDWP)	5.1	135 Days after Issuance of Notice to Proceed to Contractor
4	Draft PDIWP	5.3(a)	Same as item 3
5	Draft Site Wide Baseline Conditions Plan	5.5	Same as item 3
6	PDI and Sitewide Baseline Conditions QAPPs/HASPs	5.3(a)iii 5.5(e), 7.7(a), 7.7(d)	Within 60 days upon receipt of EPA comments on draft final PDI WP and Baseline Conditions Plan
7	PDI Phase I Data Submittal	5.4	10 days after Respondents’ receipt of all validated PDI Phase I sampling data
8	Draft PDIER and PDI QAPP Addendum for PDI Phase II	5.3(b), 5.4, 7.7(d)	80 days after Respondents’ submittal to EPA of all data for PDI Phase I  <i>Draft PDIER – Phase I is not finalized</i>
9	PDI Phase II Data Submittal	5.4	10 days after Respondents’ receipt of all validated PDI Phase II sampling data
10	Draft Phase II PDIER	5.4	60 days after Respondents’ submittal to EPA of all validated PDI Phase II sampling data

11	Draft Sitewide Baseline Conditions Data Report	5.6	90 days after receipt of final validated laboratory data
12	Draft Source Control SA	5.7	60 days after submittal of Preliminary RD
13	Draft TS Work Plan (if required)	5.9(b)	As set forth in the Final RDWP
14	Preliminary (30%) RD/Basis of Design	5.10	60 days after EPA approval of PDIER.
15	Intermediate (60%) RD	5.11	120 days after EPA comments on Preliminary RD.
16	Pre-final (90%) RD	5.12	120 days after EPA comments on Intermediate RD
17	Final (100%) RD	5.13	60 days after EPA comments on Pre-Final RD

## 9. STATE AND TRIBAL PARTICIPATION

- 9.1 Copies.** Respondents shall, at any time they send a deliverable to EPA, send a copy of such deliverable to the State and Tribe. EPA shall, at any time it sends a notice, authorization, approval, or disapproval to Respondents, send a copy of such document to the State and Tribe.
- 9.2 Review and Comment.** The State and Tribe will have a reasonable opportunity for review and comment prior to:
- (a) Any EPA approval or disapproval under ¶ 7.6 (Approval of Deliverables) of any deliverables that are required to be submitted for EPA approval; and
  - (b) Any disapproval of, or Notice of Work Completion under, ¶ 5.17 (Notice of Work Completion).

## 10. REFERENCES

- 10.1** The following regulations and guidance documents, among others, apply to the Work. Any item for which a specific URL is not provided below is available on one of the two EPA Web pages listed in ¶ 10.2:
- (a) A Compendium of Superfund Field Operations Methods, OSWER 9355.0-14, EPA/540/P-87/001a (Aug. 1987).
  - (b) CERCLA Compliance with Other Laws Manual, Part I: Interim Final, OSWER 9234.1-01, EPA/540/G-89/006 (Aug. 1988).
  - (c) CERCLA Compliance with Other Laws Manual, Part II, OSWER 9234.1-02, EPA/540/G-89/009 (Aug. 1989).

- (d) Guidance on EPA Oversight of Remedial Designs and Remedial Actions Performed by Potentially Responsible Parties, OSWER 9355.5-01, EPA/540/G-90/001 (Apr.1990).
- (e) Guidance on Expediting Remedial Design and Remedial Actions, OSWER 9355.5-02, EPA/540/G-90/006 (Aug. 1990).
- (f) Guide to Management of Investigation-Derived Wastes, OSWER 9345.3-03FS (Jan. 1992).
- (g) Permits and Permit Equivalency Processes for CERCLA On-Site Response Actions, OSWER 9355.7-03 (Feb. 1992).
- (h) Guidance for Conducting Treatability Studies under CERCLA, OSWER 9380.3-10, EPA/540/R-92/071A (Nov. 1992).
- (i) National Oil and Hazardous Substances Pollution Contingency Plan; Final Rule, 40 C.F.R. Part 300 (Oct. 1994).
- (j) Guidance for Scoping the Remedial Design, OSWER 9355.0-43, EPA/540/R-95/025 (Mar. 1995).
- (k) Remedial Design/Remedial Action Handbook, OSWER 9355.0-04B, EPA/540/R-95/059 (June 1995).
- (l) EPA Guidance for Data Quality Assessment, Practical Methods for Data Analysis, QA/G-9, EPA/600/R-96/084 (July 2000).
- (m) Guidance for Quality Assurance Project Plans, QA/G-5, EPA/240/R02/009 (Dec. 2002).Institutional Controls: Third Party Beneficiary Rights in Proprietary Controls (Apr. 2004).
- (n) Quality management systems for environmental information and technology programs -- Requirements with guidance for use, ASQ/ANSI E4:2014 (American Society for Quality, February 2014).
- (o) Uniform Federal Policy for Quality Assurance Project Plans, Parts 1-3, EPA/505/B-04/900A through 900C (Mar. 2005).
- (p) Superfund Community Involvement Handbook SEMS 100000070 (January 2016), <https://www.epa.gov/superfund/community-involvement-tools-and-resources>.
- (q) EPA Guidance on Systematic Planning Using the Data Quality Objectives Process, QA/G-4, EPA/240/B-06/001 (Feb. 2006).
- (r) EPA Requirements for Quality Assurance Project Plans, QA/R-5, EPA/240/B-01/003 (Mar. 2001, reissued May 2006).

- (s) EPA Requirements for Quality Management Plans, QA/R-2, EPA/240/B-01/002 (Mar. 2001, reissued May 2006).
- (t) USEPA Contract Laboratory Program Statement of Work for Inorganic Analysis, ILM05.4 (Dec. 2006).
- (u) USEPA Contract Laboratory Program Statement of Work for Organic Analysis, SOM01.2 (amended Apr. 2007).
- (v) EPA National Geospatial Data Policy, CIO Policy Transmittal 05-002 (Aug. 2008), <https://www.epa.gov/geospatial/geospatial-policies-and-standards> and <https://www.epa.gov/geospatial/epa-national-geospatial-data-policy>.
- (w) USEPA Contract Laboratory Program Statement of Work for Inorganic Superfund Methods (Multi-Media, Multi-Concentration), ISM01.2 (Jan. 2010).
- (x) Close Out Procedures for National Priorities List Sites, OSWER 9320.2-22 (May 2011).
- (y) Recommended Evaluation of Institutional Controls: Supplement to the “Comprehensive Five-Year Review Guidance,” OSWER 9355.7-18 (Sep. 2011).
- (z) Construction Specifications Institute’s MasterFormat [specify current edition], available from the Construction Specifications Institute, <https://www.csinet.org/masterformat>.
- (aa) Updated Superfund Response and Settlement Approach for Sites Using the Superfund Alternative Approach, OSWER 9200.2-125 (Sep. 2012).
- (bb) Institutional Controls: A Guide to Planning, Implementing, Maintaining, and Enforcing Institutional Controls at Contaminated Sites, OSWER 9355.0-89, EPA/540/R-09/001 (Dec. 2012).
- (cc) Institutional Controls: A Guide to Preparing Institutional Controls Implementation and Assurance Plans at Contaminated Sites, OSWER 9200.0-77, EPA/540/R-09/02 (Dec. 2012).
- (dd) EPA’s Emergency Responder Health and Safety Manual, OSWER 9285.3-12 (July 2005 and updates), [http://www.epaosc.org/\\_HealthSafetyManual/manual-index.htm](http://www.epaosc.org/_HealthSafetyManual/manual-index.htm).
- (ee) Broader Application of Remedial Design and Remedial Action Pilot Project Lessons Learned, OSWER 9200.2-129 (Feb. 2013).
- (ff) Guidance for Management of Superfund Remedies in Post Construction, OLEM 9200.3-105 (Feb. 2017), <https://www.epa.gov/superfund/superfund-post-construction-completion>.

**10.2** A more complete list may be found on the following EPA Web pages:

Laws, Policy, and Guidance

<https://www.epa.gov/superfund/superfund-policy-guidance-and-laws>

Test Methods Collections

<https://www.epa.gov/measurements/collection-methods>

**10.3** For any regulation or guidance referenced in the Settlement or SOW, the reference will be read to include any subsequent modification, amendment, or replacement of such regulation or guidance. Such modifications, amendments, or replacements apply to the Work only after Respondents receive notification from EPA of the modification, amendment, or replacement.



MEMORANDUM OF AGREEMENT  
BETWEEN THE PORT OF SEATTLE, THE CITY OF SEATTLE, AND KING COUNTY  
REGARDING THE EAST WATERWAY OPERABLE UNIT  
OF THE HARBOR ISLAND SUPERFUND SITE

THIS MEMORANDUM OF AGREEMENT (“MOA”) is entered into by the Port of Seattle (“Port”), The City of Seattle (“City”) and King County (“County”), collectively referred to as the “East Waterway Group” (“EWG”) and individually as “member” or “members.” The effective date of this MOA is the latter date by which all three members have signed.

RECITALS

WHEREAS, the EWG members have been cooperating to fund and perform a Supplemental Remedial Investigation and Feasibility Study (“SRI/FS”) of the East Waterway Operable Unit of the Harbor Island Superfund Site (hereafter the “Site”) since 2006, pursuant to the Administrative Settlement Agreement and Order on Consent for Supplemental Remedial Investigation/Feasibility Study, CERCLA Docket No. 10-2007-0030 (“2006 Order”); and

WHEREAS, the SRI/FS has been approved by the United States Environmental Protection Agency, though some supplemental FS work continues under the 2006 Order, and EWG members intend to continue to coordinate efforts to implement and fund the remaining work required by that order; and

WHEREAS, EPA issued a Proposed Plan followed by an Interim Record of Decision (“IROD”) in which EPA selected an interim remedy for the Site; and

WHEREAS, the EWG members expect that EPA will propose an Administrative Settlement Agreement and Order on Consent (“ASAOC”) to design the interim remedy, followed by a consent decree (“Consent Decree”) to implement the remedy; and

WHEREAS, the EWG members intend to each sign, in their individual capacities, the ASAOC; and

WHEREAS, the EWG members intend to continue to coordinate their efforts, as separate signatories jointly responsible under CERCLA for meeting the requirements of any such ASAOC by cooperating to implement and fund (subject to individual appropriations, potential subsequent re-allocation of costs, and joint efforts to secure contributions from other Potentially Responsible Parties (“PRPs”) the design work required by such ASAOC;

NOW THEREFORE, the EWG members agree as follows:

## TERMS

### 1. Applicability of this Agreement.

This Agreement shall be in full force and effect upon its execution by all EWG members. After this Agreement takes effect, it shall govern their actions and the costs they incur to complete work under the 2006 ASAOC and to implement the new ASAOC regarding remedial design. This Agreement does not supersede or alter in any way the provisions of the 2006 MOA among the EWG members, which continues in effect for actions taken and costs incurred prior to this Agreement taking effect.

### 2. Roles and Decision-making.

2.1 The roles and decision-making provisions outlined herein are established to facilitate coordination of EWG member efforts to fulfill their respective obligations under the 2006 Order and the anticipated ASAOC. No delegation of individual EWG member decision-making or legal authority to any other EWG member(s) is intended or implied.

2.2 The Port will continue managing the existing contract to implement tasks required under the 2006 Order for the SRI/FS. Implementation of that contract and sharing of the associated costs are now subject to this Agreement.

### 3. Each of the EWG members shall appoint one representative to each of three groups: 1) a Technical Group; 2) a Manager Group; and 3) a Director Group. Each Group shall make decisions by consensus, meaning that the EWG members' representatives must, for purposes of their agreed coordination under this MOA, reach unanimous agreement. An EWG member may have more of its personnel attend meetings and participate in discussions, but each EWG member may only have its designated representative or that person's substitute express that EWG member's position when an EWG decision is being made. If the Technical Group cannot reach consensus, it shall elevate the disputed issue to the Manager Group or Director Group, as appropriate. If the Manager Group cannot reach consensus, it shall elevate the disputed issue to the Director Group.

3.1 Each Group shall rotate administrative responsibilities (setting meetings, developing agendas, and the like) among its EWG member representatives or make other arrangements as it deems appropriate to perform administrative tasks.

- 3.2 Each Group shall confer and meet as often as it deems appropriate. An EWG member representative may call for a meeting of their respective Group with reasonable notice and the other Group representatives shall cooperate. As a guideline, the Technical Group should meet at least once per month; the Manager Group should meet at least once every two months; and the Director Group should meet at least once every six months.
  - 3.3 Technical Group: The responsibilities of the Technical Group shall include, but are not limited to: reviewing, evaluating and revising deliverables required by the Scopes of Work (“SOWs”) attached to the 2006 Order and the ASAOC before such deliverables are provided to EPA; responding to EPA drafts of orders, SOWs, or other documents; responding to EPA requests and directives under the 2006 Order and ASAOC; identifying the consultants and contractors needed to implement the SOWs and participating cooperatively in selecting them; directing consultants and contractors implementing the SOWs under the 2006 Order and ASAOC, including reviewing and commenting on deliverables; communicating with the Site EPA remedial project manager, their support staff, and other regulatory agencies as appropriate, keeping the Manager Group and Director Group informed of the status of the implementation of the SOWs; carrying out tasks assigned by the Manager Group or Director Group; and overseeing the development of cost estimates.
  - 3.4 Manager Group: The responsibilities of the Manager Group shall include, but are not limited to: evaluating and guiding approaches to strategic and policy issues; guiding communication with the public and with stakeholder groups; overseeing the work of the Technical Group; communicating with EPA and other regulatory agencies as appropriate; and approving the retention of consultants and contractors to implement the SOWs.
  - 3.5 Director Group: The responsibilities of the Director Group shall include but are not limited to: making decisions on disputed issues; overseeing the Manager Group; guiding strategic and policy choices.
  - 3.6 If the Directors are unable to resolve a disputed issue, the EWG members may choose to employ a third-party facilitator or mediator, or they may choose another way to resolve the dispute, such as escalating it to a more senior level (e.g., Directors’ supervisors) of their respective agencies.
  - 3.7 The EWG members shall have equal access to all consultant and contractor work product, including all drafts and final versions, including but not limited to, reports, sampling plans, analytical data, and cost estimates.
4. **Contracting Responsibility.** With EWG member agreement as to the timing for doing so, the Port shall procure and administer the design contract to implement

the ASAOC SOW. For any other consultants or contractors determined necessary to retain to implement the 2006 Order or ASAOC SOWs, and/or to perform any other work deemed necessary by the EWG members, the EWG members shall agree which of them will procure and administer the contract. The EWG member that procures and administers a contract shall be the “Contract Administrator.”

- 4.1.1 The EWG members will reach consensus on the technical qualifications and scope of work for each contract. The Contract Administrator will comply with its own requirements and all applicable statutes regarding hiring of consultants and contractors by governmental entities in advertising for and selecting any consultant or contractor.
- 4.1.2 Consultant Selection: The Contract Administrator will have two members (project delivery and technical lead) on the selection committee to select any consultant. Each other member shall have one representative on the selection committee. Before candidates for the consultant are interviewed and scored, each EWG member shall identify any candidate that has done work for the member related to the East Waterway or Lower Duwamish. Members shall reach an agreement concerning which consultants have a conflict of interest based on their work for individual members and what mitigating measures, if any, may be taken to address the conflict. The Contract Administrator shall execute a contract with the consultant that is elected using the agreed upon selection process. The contract shall include provisions (1) requiring the contractor to indemnify all EWG members and the United States for losses or liabilities to the maximum extent permitted by law; (2) requiring that the contractor maintain (at minimum) the types and limits of insurance specified in the ASAOC; and (3) requiring that any insurance policies name all EWG members and EPA as additional insureds.
- 4.1.3 The Contract Administrator shall send invoices to the other EWG members for their share of Shared Costs, as described below in Sections 4.1.4 and 4.1.5. Invoices from consultants and contractors shall be sent to the other EWG members when those invoices are received and approved by the Contract Administrator.
- 4.1.4 The Contract Administrator shall pay the consultants and contractors when invoices meet the contract requirements and then send invoices for Shared Costs, other than Staff Costs, on a monthly basis, or as close to monthly as is feasible, to the other EWG members, who shall reimburse the Contract Administrator for their shares of the costs.
- 4.1.5 The Contract Administrator shall send the other EWG members invoices for Staff Shared Costs at least quarterly.

- 4.1.6 Payment by the other EWG members to the Contract Administrator for reimbursement of all applicable invoices shall be due no later than forty-five (45) days from issuance of an invoice from the Contract Administrator, however, members shall endeavor to pay invoices in no more than 30 days.
- 4.1.7 In the event a party disputes an invoice or portion of an invoice for Shared Costs, the disputing party shall pay the invoice in full with written notification to the Contract Administrator identifying the disputed amount. Disputes regarding costs or payments of invoices shall be handled in the same manner as disputes regarding other matters under Section 31 except that if the EWG members cannot resolve the dispute within thirty (30) days, they shall select a neutral outside person and authorize that person to resolve it. The selected neutral person shall be directed to resolve the dispute in no more than sixty (60) days from receiving it. In the event that the dispute is resolved in the disputing party's favor, the Contract Administrator will refund the disputed funds to the disputing party within 30 days of resolution.

## **5. Contract Oversight.**

- 5.1 Decisions regarding consultants' work products will be made by consensus of the members. Such decisions will be communicated to the consultant by the Contract Administrator's project manager.
- 5.2 Any consultant performing work in accordance with this MOA will not communicate with third parties, including EPA or Ecology personnel, without first notifying the Technical Group and receiving its authorization for the communication. Such authorization will be made by consensus of the Members and communicated by the Contract Administrator's project manager.
- 5.3 All documents, including but not limited to analytical data, that are prepared, developed or generated by any consultant doing work in accord with this MOA shall be provided to all members and shall be subject to review by all members prior to submission to EPA or any other third party. Members shall be given at least fifteen business days to review and comment on drafts of work by the consultant that are going to be provided to EPA or any other third party, unless EPA's deadlines require that a shorter review time be provided. The consultant shall compile all member comments and distribute them to all members. The Contract Administrator's project manager will direct the consultant on needed consensus changes to work products.

## **6. Shared Costs.**

- 6.1 The EWG members shall share the following costs (“Shared Costs”) equally on an interim basis, subject to later agreement or allocation: 1) oversight costs billed by EPA; 2) costs for consultants and contractors retained by the Contract Administrator with agreement of all the EWG members to implement the 2006 Order and ASAOC SOWs; 3) salary, benefits, and overhead (at rate(s) for overhead agreed to by the EWG members) (“Staff Costs”) for hours worked by a Contract Administrator’s staff who are directly involved in contract development, procurement, oversight and management, and related expenses (such as publication of an RFP; legal review of contracts and conflict waiver requests for consultants and contractors retained to implement the SOWs, technical and legal staff involved in developing access agreements and tribal fishing and business interruption agreements, and handling reimbursement billings to other EWG members). Shared Costs includes all costs incurred or yet to be incurred to implement the 2006 Order. The EWG members may also agree in writing to share other costs. Such agreement may be memorialized in e-mail between the Technical, Manager, or Director groups as appropriate.
- 6.2 The EWG members shall not share: 1) the Staff Costs of representatives of the Technical, Manager, or Director groups described in Section 3 above, or any Staff Costs or any legal/attorney costs other than as described in Section 6.1 above (unless the EWG members all agree to include such costs as Shared Costs); and 2) costs for work not required by the SOWs (unless the EWG members all agree to perform such work and consider the costs for such work to be Shared Costs).
- 6.3 The agreement to share some costs and not others shall not have any bearing on the recoverability of costs under CERCLA or MTCA, or preclude or restrict claims regarding the same. This MOA shall not be used by any member in any future litigation or other cost allocation proceeding as the basis for asserting what any member’s final share of responsibility should be.
7. **Financial Assurance.** The Port agrees to use its best efforts to fulfill the financial assurance requirements of Paragraph 87 of the ASAOC on behalf of the EWG using the financial test criteria. The parties acknowledge that the Port is subject to certain budget limitations as described in Section 20 below. If the Port is unable to meet EPA’s financial test requirements, or if EPA is unwilling to accept the Port’s “standby funding commitment” letter, due to the restrictions imposed under 49 U.S.C. § 47133, the County agrees that it will instead fulfill the financial assurance obligations of Paragraph 87 of the ASAOC on behalf of the EWG.

- 7.1 In the event that no party is able to meet the financial test criteria to EPA's satisfaction, the parties agree to share equally the costs of obtaining an alternative financial assurance mechanism (e.g., bond or letter of credit).
  - 7.2 If EPA issues a notice of implementation of a Work Takeover under Paragraph 68.b of the ASAOC, the parties will pay equal shares of any amount demanded by EPA within 30 days of the demand, except for amounts exceeding the current budget authority of the responsible departments for the Respondents. For amounts exceeding current budget authority, Respondents shall immediately initiate the steps necessary to obtain sufficient budget authority. Payment of the remaining amounts shall be made no later than 30 days after the necessary budget authority has been enacted and in any event within 120 days of the demand unless an alternative payment schedule is approved by EPA.
8. **Ex Parte Communications.** The EWG members agree to confer with each other prior to having communications with EPA, the Washington Department of Ecology ("Ecology"), other regulatory agencies, the public, stakeholders, or the news media about the 2006 Order and/or ASAOC, any other EWG work regarding the Site, or implementation of the SOWs for the Site. The EWG members shall endeavor to make such communications in the best interests of their collaboration as EWG members. If an EWG member has communications regarding the 2006 Order and/or ASAOC, any EWG work related to the Site, or implementation of the SOWs with any such entities, the communication shall be promptly disclosed to the other EWG members. The intent of this provision is to protect all the EWG members and to maintain the credibility, reliability, and effectiveness of the EWG, and to avoid creating confusion.
9. **Responsibility for Changes to the Schedule.** The members are jointly responsible for delays to the schedule for any work done under the 2006 Order and ASAOC, as may be amended by EPA, including delays related to acquisition of property rights required for completion of work.
10. **Cooperation on Model Toxics Control Act Grants.** The members will coordinate and cooperate concerning the documentation of costs that are eligible for partial reimbursement through Model Toxics Control Act grants.
11. **Allocation; Reservation of Claims; Bar on litigation; Tolling of the Statute of Limitations.**
  - 11.1 The parties intend to work in good faith to develop by January 31, 2026, the terms of a final settlement agreement among them that they will recommend to their respective legislative bodies (as necessary for approval) to govern their cost-sharing. Until the parties have executed a final settlement agreement regarding their cost shares, the terms of the 2006 MOA shall

continue to govern regarding costs incurred prior to the effective date of this Agreement.

- 11.2 The EWG members shall not file any claim against any other EWG member regarding any costs for investigation or remedial action for the East Waterway for as long as this Agreement is in effect, except that if an EWG member withdraws from this Agreement, then it may file claims against the other EWG members and vice versa.
- 11.3 By entering into this agreement, the EWG members are not reviving any expired statute of limitations but are tolling any currently applicable statute of limitations that applies to claims they could bring against each other for costs under CERCLA or costs under MTCA. The statute of limitations shall be tolled for the duration of this Agreement; provided, however, that tolling shall cease with respect to parties withdrawing from this Agreement pursuant to Section 12 upon their withdrawal.
- 11.4 The EWG members will cooperate in seeking to include additional PRPs in an alternative dispute resolution process for the allocation of any and all costs that are recoverable under CERCLA or MTCA. The EWG members reserve all claims they may have against PRPs that are not parties to this Agreement.

## **12. Withdrawal.**

- 12.1 An EWG member may withdraw from this agreement with thirty (30) days prior written notice to the other EWG members. An EWG member that withdraws shall remain obligated to pay its share of costs that have been incurred prior to its notice of withdrawal or that have not yet been incurred but that the withdrawing EWG member agreed to or became obligated to pay, such as by approving retention of a consultant or contractor. The obligation to pay shall continue for costs for or related to completion of any SOWs for which the EWG members contracted prior the member's withdrawal.
- 12.2 An EWG member that withdraws also shall remain subject to the provisions in this Agreement regarding confidentiality and privilege as to all confidential and privileged communications or documents to which they were privy prior to their withdrawal.

## **13. Default.**

- 13.1 An EWG member that fails to pay its share of costs when due, or that breaches another substantive provision of this Agreement, is in default. If that EWG member fails to cure the default within thirty (30) days of receiving written notice of the default from the other EWG members, or within such

longer time as the other EWG members grant, that EWG member may be expelled from the EWG by the remaining EWG members and shall have no further rights under this Agreement. An EWG member that is expelled from the EWG shall continue to be obligated to pay Shared Costs as described in Section 6.1 above.

- 13.2 An EWG member that is expelled from the EWG shall remain subject to the provisions in this Agreement regarding confidentiality and privilege.
- 14. Notices.** Any notices required by this Agreement shall be in writing and shall be provided to the EWG member's designated Technical, Manager, and Attorney representatives. Receipt of the notice must be promptly acknowledged. EWG members' designated representatives are identified in Appendix A. An EWG member may change its designated representative by sending notice by e-mail to the other EWG members' Technical and Attorney representatives.
- 15. Consultants and contractors shall not testify against the EWG members.** The EWG members shall not individually retain consultants or contractors that are retained to implement the 2006 Order or ASAOC SOWs as testifying experts against any of the EWG members in litigation or in any proceeding to recover or allocate costs for the Site, without the written agreement of all the EWG members.
- 16. Additional parties.** Other parties may be added to this Agreement by unanimous consent of the EWG members.
- 17. Confidentiality and privilege.**
- 17.1 Nothing in this MOA shall be construed to affect the separate and independent representation of the members by their respective legal counsel; however, the EWG members recognize the potential of litigation with other PRPs, with EPA or Ecology, or other entities. They intend that their communications with each other be subject to the Joint Defense Privilege in order to retain the Attorney-Client Privilege and Attorney Work Product protection to the same extent as if they had not communicated with each other, and the members shall take reasonable steps to protect and preserve the confidentiality of communications subject to the Joint Defense Privilege.
- 17.2 If an EWG member receives a discovery request or a request for public records pursuant to state law for communications or documents shared with one or more of the EWG members, that party shall immediately notify the other EWG members of the request. In responding to the request, the recipient shall assert objections and exceptions that it deems appropriate. The recipient shall endeavor to provide at least ten business days' notice to the other EWG members before producing documents in response to the request. The other EWG members may take what actions they deem

appropriate, which may include but are not limited to, seeking a restraining order, moving to quash a subpoena, or intervening in litigation.

- 18. No partnership, joint venture, etc.** This Agreement does not create a partnership, joint venture, new governmental entity, nor any independent nongovernmental entity. The EWG has no staff, no address, no budget and no independent authority. The EWG members remain subject to the governance of their respective entities.
- 19. Litigation with non-EWG members.** The EWG members may, individually or collectively, bring a claim for East Waterway costs against any party that is not an EWG member. The EWG members shall confer with each other prior to initiating litigation against other parties and shall endeavor to cooperate to protect all of their interests.
- 20. Budget Authority.** The commitments made by EWG members in this Agreement are subject each to their respective appropriations or budget approvals as well as restrictions under applicable state and federal law. The EWG members shall use their best efforts to obtain budget authority that is sufficient to fulfill their obligations under this Agreement. The EWG members acknowledge that the Washington Anti-Deficiency Act requires public entities to have budget authority for financial commitments: No EWG member is committing to expend or contract to expend any money in excess of amounts appropriated or authorized in their respective budgeting processes, and this MOA may be unilaterally terminated by any EWG member for lack of appropriation or budget authority. The costs associated with such a termination, if any, shall not exceed the appropriation or authorization for the budget period in which termination occurs. In addition, the Port is subject to the restrictions under 49 U.S.C. § 47133 regarding the use of airport revenue to cover its costs under this Agreement because such costs are not an airport capital or operating expense. Under no circumstances will the Port be obligated to use airport revenue to fund work under this Agreement.
- 21. No third-party beneficiaries.** This Agreement is not intended to benefit any third party and is not enforceable by any third party, including but not limited to any regulatory agency.
- 22. No admission of liability.** This Agreement does not constitute, nor can it be used as evidence of, any admission of law or fact or any waiver of a claim or defense except as expressly provided in this Agreement.
- 23. Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original and together they shall constitute a single instrument.

*(Signatures on the following pages)*

IN WITNESS WHEREOF, the parties hereto enter into this MOA. Each person signing this MOA represents and warrants that he or she has been duly authorized to enter into this MOA by the district or municipality on whose behalf it is indicated that the person is signing.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2025.

KING COUNTY

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By: Kamuron Gurol  
Title: Director, King County Wastewater Treatment Division

CITY OF SEATTLE

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By: Andrew Lee, PE, PMP, PgMP  
Title: General Manager/Chief Executive Officer

THE PORT OF SEATTLE

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By: Stephen P. Metruck  
Title: Executive Director

**Appendix A**  
**EWG Members' Designated Representatives**

	<b>Tech Group</b>	<b>Manager Group</b>	<b>Director Group</b>
<b>Port</b>	<p><b>Brick Spangler</b></p> <p><a href="mailto:spangler.b@portseattle.org">spangler.b@portseattle.org</a> 206-295-9538</p>	<p><b>Joanna Florer</b></p> <p><a href="mailto:florer.j@portseattle.org">florer.j@portseattle.org</a> 206-612-9540</p>	<p><b>Sarah Ogier</b></p> <p><a href="mailto:Ogier.s@portseattle.org">Ogier.s@portseattle.org</a> 206-476-4820</p>
<b>City</b>	To be added	To be added	To be added
<b>County</b>	<p><b>Debra Williston</b></p> <p>Mail Stop: KSC-NR-6200 201 S. Jackson St. Seattle, WA 98104</p> <p><a href="mailto:debra.williston@kingcounty.gov">debra.williston@kingcounty.gov</a> (206) 477-4850</p>	<p><b>Jeff Stern</b></p> <p>Mail Stop: KSC-NR-6200 201 S. Jackson St. Seattle, WA 98104</p> <p><a href="mailto:jeff.stern@kingcounty.gov">jeff.stern@kingcounty.gov</a> (206) 477-5479</p>	<p><b>Kamuron Gurol</b></p> <p>Mail Stop: KSC-NR-6200 201 S. Jackson St. Seattle, WA 98104</p> <p><a href="mailto:kgurol@kingcounty.gov">kgurol@kingcounty.gov</a> (206) 263-5767</p>

# East Waterway Superfund Site Remedial Design Order and Memorandum of Agreement with City of Seattle and King County

Presented by:

Brick Spangler – Sr. Env Program Manager

Joanna Florer – Sr. Manager Env Programs

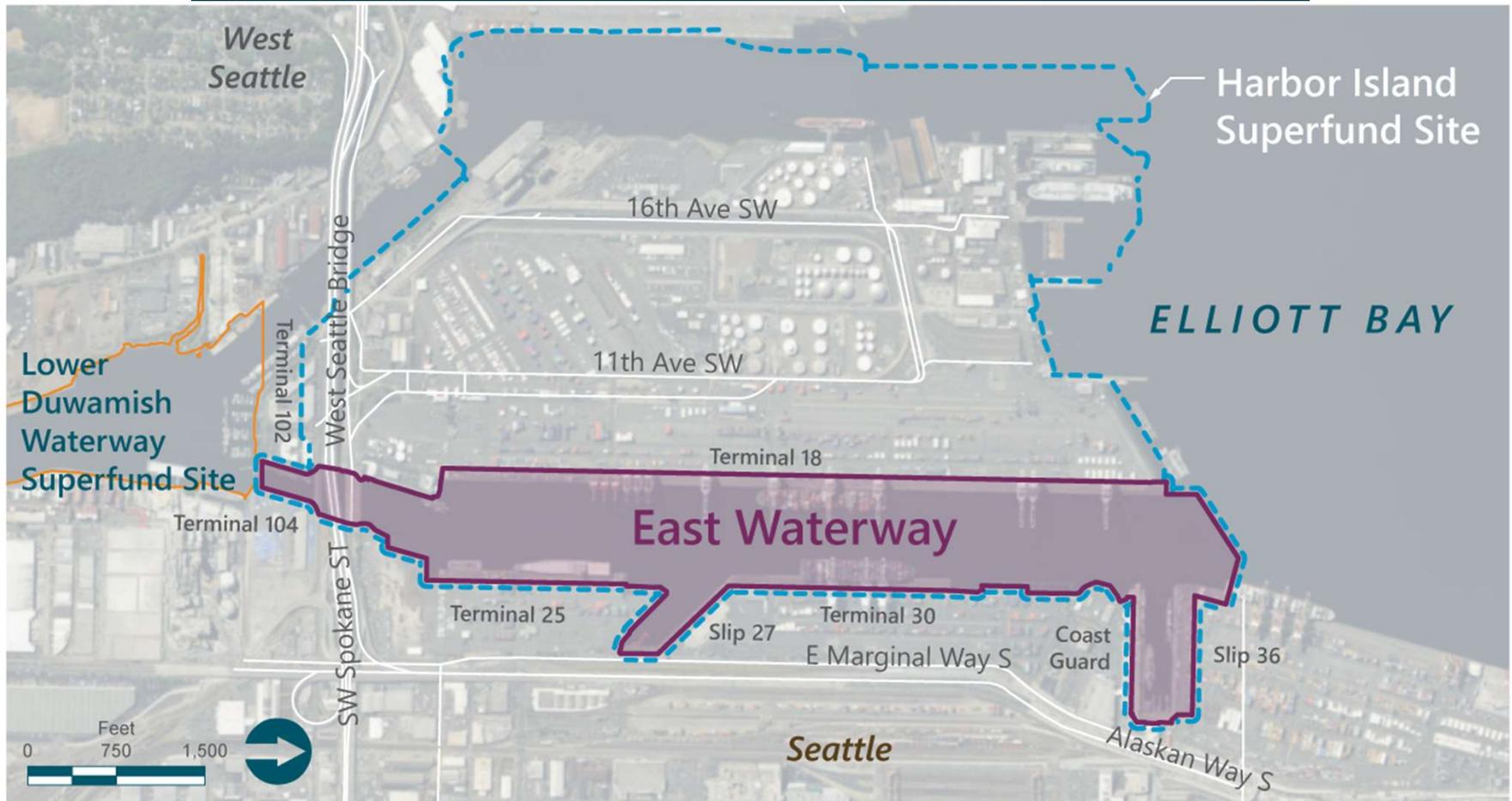


## Action Requested

### **Request Commission authorization for Executive Director to:**

1. Sign and execute an EPA Administrative Settlement Agreement and Order on Consent (Order) requiring the Port of Seattle, City of Seattle, and King County to perform remedial design for the East Waterway Operable Unit of the Harbor Island Superfund Site; and
2. Sign a Potential Responsible Party (PRP) Cost Sharing Agreement between the Port of Seattle, City of Seattle, and King County to share the costs to perform the scope of work required by EPA's Order including EPA oversight costs.

# East Waterway Cleanup Location



# Project Description

Complete the Remedial Design with the City of Seattle and King County for the cleanup of 121 acres of contaminated sediment in the 157-acre East Waterway Superfund Site.

# Involved Parties

- **Port of Seattle** –The lead contracting agency for the cleanup
- **East Waterway Group:** Port of Seattle, City of Seattle, King County will implement the cleanup with oversight from EPA and will share costs
- **EPA** – Regulating Agency

# Stakeholders

- **Muckleshoot and Suquamish Tribes** – usual and accustomed fishing/harvesting area with treaty rights and is consulted by EPA
- **Washington State Department of Natural Resources (DNR)** – manager of state-owned aquatic lands in EW
- **Washington State Department of Ecology (Ecology)** – provides input on state cleanup rules and source control
- **Non-Governmental Organizations (NGO)** - Duwamish River Community Coalition (DRCC) and other NGOs have been tracking and commented on the cleanup process

# Costs, Funding and Schedule

- Estimated to cost \$30 million
- Reimbursement by the City and County of 1/3 each. (subject to reallocation)
- Funding in the 2025-2029 Environmental Remediation Liability (ERL) Authorization.
- Estimated Schedule:

<b>Commission Authorization of Order</b>	<b>Q3 – 2025</b>
<b>Consultant designer procurement</b>	Q2 2026
<b>Remedial Design</b>	2026-2031

**COMMISSION  
AGENDA MEMORANDUM**

**Item No.**

8i

**ACTION ITEM**

**Date of Meeting**

September 9, 2025

**DATE :** September 3, 2025

**TO:** Stephen P. Metruck, Executive Director

**FROM:** Jessica Carlson, Sr. Real Estate Manager, Sponsor  
Terrence Moody, Capital Project Manager  
Jennifer Maietta, Dir. Real Estate Asset Management, Sponsor

**SUBJECT:** **Fishermen’s Terminal C14 Downie Building Demolition and Entrance & Exit Paving (CIP # 801890) - Design and Construction Authorization Request**

**Amount of this request:** \$1,250,000

**Total estimated project cost:** \$4,400,000

**ACTION REQUESTED**

Request Commission authorization for the Executive Director to approve funding to (1) Design, obtain permits, advertise and execute a small works construction contract for PCS to demolish the Fishermen’s Terminal C14 Downie Building in the amount of \$600,000, and (2) Complete design and permitting of the Entry and Exit Paving project in the amount of \$650,000 for a total request of \$1,250,000 for a total authorized amount of \$1,550,000. Total estimated project cost is \$4,400,000.

**EXECUTIVE SUMMARY**

The project will be conducted in two (2) packages. Package #1: Demolish the existing Fishermen’s Downie Building (Building C-14) which is in the process of being vacated and is unleaseable due to the poor condition of the structure. The demolition will include the abatement of regulated materials, small amounts of material salvage such as windows, HVAC Systems and doors, demolition of the structure down to the existing slab, and capping of the utilities. Package #2: Repave the main entrance and exit lanes of Fishermen’s Terminal and create a parking lot in the footprint of the demolished C14 Downie building. The existing stormwater catch basin system and associated piping will be replaced to meet Environmental Stormwater requirements along with a new biofiltration system. The project will also install upgraded area lighting, three (3) EV charging stations, a bike lane, bike box, landscaping with pollinator habitat, and wayfinding signage.

Meeting Date: September 9, 2025

This project is Tier 2 under the Sustainable Evaluation Framework. Analyses are complete and results included within the scope. The project is currently in the pre-design/phase, with construction documents at the 30% stage of completion.

The Fishermen’s Terminal facility has been home to the North American Fishing Fleet, provides vessel moorage, supports many small businesses in multiple buildings including the new Maritime Innovation Center currently under construction.

**JUSTIFICATION**

The Fishermen’s Terminal entrance is visitors' first visual experience when entering the facility. The current condition of the entrance/exit roadway is uneven, marked by potholes, and is showing clear signs of wear and fatigue. The roadway median is also in a state of disrepair and needs to be replaced. These elements greatly detract from the visual appeal when entering the facility. Additionally, the existing stormwater catch-basins, and associated piping must be replaced to meet Environmental Stormwater requirements. Upgraded lighting, landscaping and signage will improve the overall aesthetic and operational safety at the entrance/exit of Fishermen’s Terminal.

The C14 Building was built in 1979 and is now fully depreciated. Major structural upgrades are required to maintain safe occupancy, but the Port cannot make a business case for rehabilitation. Without upgrades the building will continue to deteriorate, creating safety and security concerns. Only one tenant remains in the building, but they will vacate their space in September 2025. As a result, the building will be demolished.

***Diversity in Contracting***

Project staff along with the Diversity in Contracting Department have established a Woman and Minority Business Enterprise (WMBE) aspirational goal of 20% for the construction portion of the project.

**DETAILS**

The project team will:

- Facilitate small business opportunities by adhering to the WMBE aspirational goals established for the project.
- Mitigate construction-driven business risk impacts by implementing project risk management and phasing plans.
- Complete the project safely, on schedule, and on budget.

***Scope of Work***

**Package #1 Demolition:**

- Design and obtain permits to demolish C-14 Downie Building down to the slab during phase 1 utilizing Port Construction Services and the use of Port of Seattle crews and small

Meeting Date: September 9, 2025

works on-call contracts to perform the demolition. Permits include SDCI demolition permit, stormwater, and grading reviews.

- Complete salvage assessment and salvage identified items, including windows, HVAC systems and doors; complete and submit waste diversion report to SDCI
- Cap Building C14 utilities: Natural gas, Water and Sewer
- Retain Electrical power for Package #2 build-out.

**Package #2 Paving & Drainage:**

- Regrade and repave the main FT entrance/exit
- Remove and replace median & landscaping
- Install a new biofiltration swale and landscaping with pollinators
- Install stormwater catch basins, piping
- Restripe intersection and crosswalks as required
- Demolish Building C14 concrete floor slab
- Regrade/repave C14 parking lot
- Install LED Lighting in new parking lot
- Install EV duplex chargers as required by code (3ea)
- Install protected bike lanes, bicycle box, and improve connection to W 22nd.
- Install improved bicycle and pedestrian lighting within Downie area
- Install multimodal wayfinding
- Complete ADA compliance as needed

**Schedule**

*Activity*

Commission design authorization	September 9 <sup>th</sup> 2025
Design start Demolition & Paving	Quarter 3 2025
Construction Demolition for C14	Quarter 2 2026
Commission construction authorization for Paving & Drainage	Quarter 4 2026
Construction start Paving & Drainage	Quarter 2 2027
In-use date	Quarter 1 2028

**Cost Breakdown**

	This Request	Total Project
Design and Demolition of Bldg. C14	\$600,000	\$750,000
Design Paving and Drainage	\$650,000	\$800,000
Construction Paving and Drainage	\$0	\$2,850,000
<b>Total</b>	<b>\$1,250,000</b>	<b>\$4,400,000</b>

**ALTERNATIVES AND IMPLICATIONS CONSIDERED**

**Alternative 1** – Do nothing, Maintain Status Quo. With this alternative, the C14 Building will exceed the limit of its service life, the condition of the Entry and Exit Paving will adversely affect the use of the Facility assets. Maintain the current state and delay upgrades, with continued maintenance cost of \$153K annually (averaged over 12 months).

Cost Implications: \$153K/year for maintenance

Pros:

- (1) Allows port to reallocate capital investment dollars.

Cons:

- (1) Does not advance efforts to achieve Century Agenda goals
- (2) Inconsistent with Port standard of care for assets and facilities
- (3) Further deterioration of the entry and exit paving with water infiltration disrupting facility activities and causing damage requiring expensive repairs.
- (4) Increased probable construction costs in the future
- (5) Safety could be compromised for visitors, tenants and employees.
- (6) Maintenance costs will continue to increase

This is not the recommended alternative.

**Alternative 2** – Complete demolition of the C-14 Building and improvements of the Fishermen’s Terminal Entry and Exit.

Cost Implications: \$4.4M

Pros:

- (1) Advances Century Agenda goal to “Be the greenest and most energy-efficient port in North America”.
- (2) Upgrade and replace components of existing site infrastructure with features that have a 20-30-year life or more.
- (3) Provides protection of Port assets.
- (4) Helps to assure a positive visitor experience and demonstrates the Port’s commitment to maintaining its public facing asset.
- (5) The alternative will incorporate Sustainable Design elements approved by the Port Sustainability, Environment and Climate Committee (SEAC).

Cons:

- (1) This alternative uses \$4.4M of capital funds that might otherwise be made available for other uses on other projects.
- (2) Short-term construction impacts

***This is the recommended alternative.***

Meeting Date: September 9, 2025

**FINANCIAL IMPLICATIONS**

<i>Cost Estimate/Authorization Summary</i>	Capital	Expense	Total
<b>COST ESTIMATE</b>			
Original estimate	\$4,400,000	\$0	\$4,400,000
<b>AUTHORIZATION</b>			
Previous authorizations	\$300,000	\$0	\$300,000
Current request for authorization	\$1,250,000	\$0	\$1,250,000
Total authorizations, including this request	\$1,550,000	\$0	\$1,550,000
Remaining amount to be authorized	\$2,850,000	\$0	\$2,850,000

***Annual Budget Status and Source of Funds***

This project, FT Entrance and Exit Paving (C801890) is included in the draft 2026 capital plan with a total project cost of \$4,400,000. The project was included in the approved 2025 capital plan with a budget of \$2,700,000 and demolition budgeted as a non-operational expense.

This project is funded by the Tax Levy.

***Financial Analysis and Summary***

Project cost for analysis	\$4,400,000
Business Unit (BU)	Portfolio Management
Effect on business performance (NOI after depreciation)	Annual depreciation will increase by approximately \$127K based on an estimated 30-year service life, thereby reducing the NOI by the same amount.
IRR/NPV (if relevant)	N/A
CPE Impact	N/A

***Future Revenues and Expenses (Total cost of ownership)***

This replacement project will improve public safety, provide protection of Port assets and extend the useful life of the Entry and Exit pavement and landscaping. Maintaining existing assets will preserve the economic vitality of our operations and serve the Port, tenants and their customers well.

**ATTACHMENTS TO THIS REQUEST**

- (1) Presentation

**PREVIOUS COMMISSION ACTIONS OR BRIEFINGS**

None

# Fishermen's Terminal C14 Downie Building Demolition and Entrance/Exit Paving (CIP #801890)

## Design and Construction Funding

Terrence Moody – Cap



# Action Requested

Request Commission authorization for the Executive Director to approve funding to:

- (1) Design, obtain permits, advertise and execute a small works construction contract for PCS to demolish the Fishermen's Terminal C14 Downie Building in the amount of \$600,000, and
- (2) Complete design and permitting of the Entry and Exit Paving project in the amount of \$650,000 for a total request of \$1,250,000 for a total authorized amount of \$1,550,000.

Total estimated project cost is \$4,400,000.

# Project Justification

The C14 Building requires major structural upgrades to maintain safe occupancy, but the Port cannot make a business case for rehabilitation.

Without upgrades the building will continue to deteriorate, creating safety and security concerns.



C14 Downie Bldg.



C14 Downie Bldg.

# Project Justification

The current condition of entrance/exit roadway is uneven, marked by potholes, and is showing clear signs of wear and fatigue.

The roadway median is also in a state of disrepair and needs to be replaced. The existing stormwater catch-basins and associated piping must be replaced to meet Environmental Stormwater requirements.

The current condition detracts from the visual appeal when entering Fishermen’s Terminal.



Entryway facing North

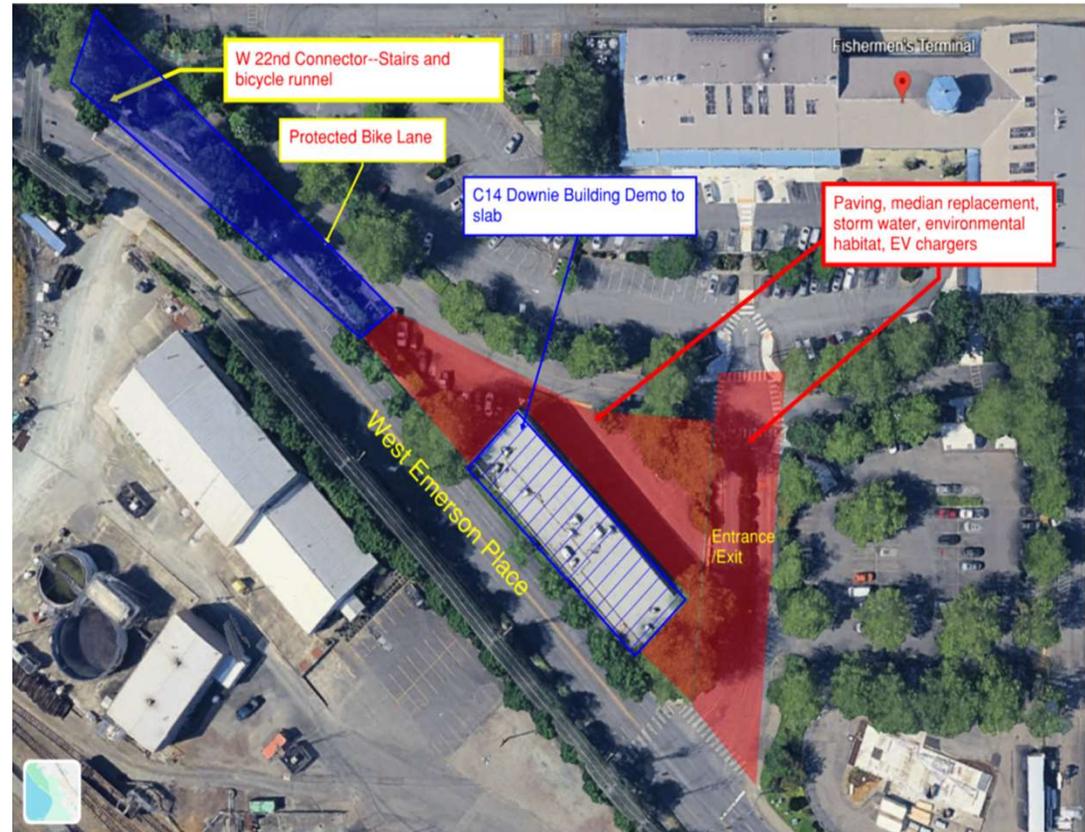


Entryway and median facing NW

# Project Scope

## Project Elements:

- Demolition
  - Demolish the C14 Downie Building to the slab
  - Cap utilities: natural gas, sewer, and water
  - Salvage windows, HVAC Systems and doors; retain select materials for on-site re-use
  - Retain existing electrical power for Package #2 build-out
- Paving and Drainage
  - Regrade and repave entrance/exit lanes
  - Replace median and landscaping
  - Add stormwater catch basins, piping, and treatment vault as needed
  - Expand and repave parking area in C14 footprint, add LED lights and EV chargers
  - Install biofiltration swale and landscaping pollinators
  - Install protected bike lanes, bicycle box, and improve connection to W 22<sup>nd</sup>
  - ADA compliance as necessary
  - Install multimodal wayfinding



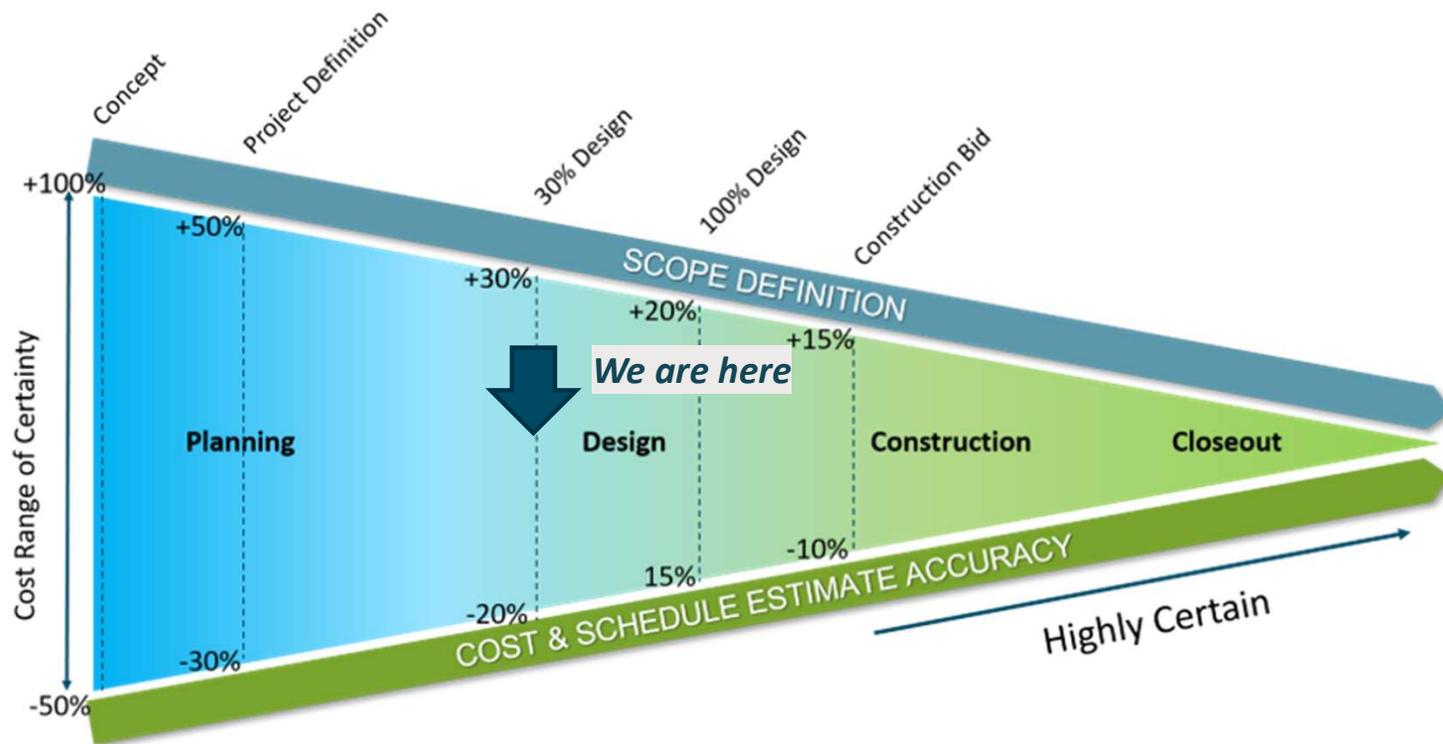
# Sustainable Design Approach

## SEAC meeting results conducted on June 18, 2025

- **Emissions**
  - The project will install (Three) 3 EV charging stations duplex per code, do not install charging beyond code
- **Stormwater**
  - The project will install bioretention system to treat on-site stormwater
- **Materials**
  - The project will procure low embodied carbon materials
  - The project will retain select demo materials for on-site reuse
- **Waste**
  - The project will salvage 1,262 tons of material from demolished building
- **Equity**
  - The project will divert landfill material outside of EJ communities
  - The project will install multimodal wayfinding
- **Transportation**
  - The project will install protected bike lanes, bicycle box, and improve connection to W 22<sup>nd</sup>.
  - The project will install improved bicycle and pedestrian lighting within Downie area
- **Green Space/ Habitat**
  - The project will install pollinator habitat in bioretention areas



# Cone of Certainty

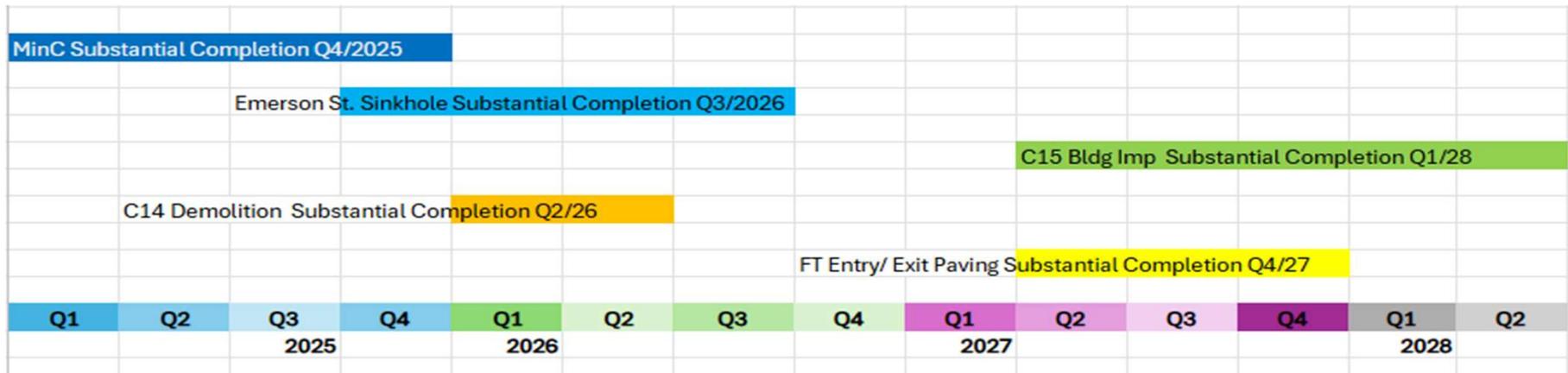


# Risks and Opportunities

Risk	Description	Probability	Impact	Mitigation
Financial risks of escalated costs	Costs may increase due to inflation/market volatility.	● MED	● HIGH	Standard contingency may not be adequate for this project. Will be re-evaluated during 60% design.
Phases of work will occur during other projects on site	Concurrent projects at FT— MInC, C15 Rehabilitation, Emerson St. Sinkhole.	● HIGH	● HIGH	Will coordinate timing and laydown areas with other projects
Ingress/Egress to FT	Entrance to FT will be impacted during construction.	● HIGH	● HIGH	Will ensure ingress and egress FT is maintained at all times using traffic control measures.
Potential permit delays	Project will be designed per code. SDCI may have minor concerns.	● MED	● MED	Design per code to mitigate risks; document salvage assessment and waste diversion
Elevation of the site water table to the area	Salmon Bay water table is in close proximity of FT entrance and exit.	● HIGH	● HIGH	Design per code to mitigate risks with respect to the water table.
Phases of work to be completed during rainy season	Concrete should be poured during warmer, drier season unless protected by plastic or Visqueen.	● MED	● MED	The project schedule to fit within the dry season: BID January 2027, begin construction in June 2027.

# Construction Sequencing and Tenant Outreach

- Construction coordination with other ongoing FT projects:



- Tenant outreach and communication ahead of and during construction.
- Entry and Exit entrance detours will have traffic control with coordination at two other access points to the site.

# Preliminary Schedule

Commission Authorization – Entrance/Exit Design & Downie Building Demolition	Sept. 9, 2025
Commission Authorization – Entrance & Exit Construction	2026 Quarter 4
Notice to Proceed	2027 Quarter 2
In-use date	2027 Quarter 4

**QUESTIONS?**



**COMMISSION  
AGENDA MEMORANDUM**

**Item No.** 10a

**ACTION ITEM**

**Date of Meeting** September 9, 2025

**DATE:** August 29, 2025

**TO:** Stephen P. Metruck, Executive Director

**FROM:** Keri Stephens, Director, Aviation Facilities and Capital Programs  
Eileen Francisco, Director, Aviation Project Management

**SUBJECT: Utility Meter Networking (CIP# C801240) – Construction Authorization**

**Amount of this request:** \$31,175,000

**Total estimated project cost:** \$35,525,000

**ACTION REQUESTED**

Request Commission authorization for the Executive Director to (1) advertise, award, and execute a major works construction contract; (2) execute related project change orders, amendments, work authorizations, purchases, contracts, and take other actions necessary to support and deliver the Utility Meter Networking project within the approved budget; and (3) authorize use of Port of Seattle crews to support construction activities. This request is for \$31,175,000 of a total estimated cost of \$35,525,000.

**EXECUTIVE SUMMARY**

The Port of Seattle's Aviation campus currently has approximately 750 electric meters distributed throughout the facility. Most of these meters are outdated, nearing the end of their service life, incompatible with centralized management software, and non-compliant with current energy code requirements.

This project will replace many of the aging and failing meters with new standard electric meters and connect them to a centralized software system capable of reading and storing meter data. This upgraded, networked metering system will enable the Port to comply with current energy codes, Clean Building Standards, and accurately bill tenants, and track the airport's total energy demand. This will provide critical data for improved utility management and planning.

**JUSTIFICATION**

The Port of Seattle must comply with the Washington State Energy Code for any permitted alterations, repairs, or modifications. In addition, buildings over 20,000 square feet are subject

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to the Clean Buildings Performance Standard, which legally requires energy benchmarking, energy management planning, and achieving specific energy efficiency targets. The Port is required to begin compliance and reporting by June 1, 2026.

This project enables the Port to meet the requirements of the updated Washington State Energy Code (WSEC 2018, Section C409), the Clean Buildings Performance Standard, and IEEE Standard 1547. As part of the project, many electrical meters across the Seattle Tacoma International Airport campus will be upgraded to a new standard. These upgrades will improve system performance and ensure a more stable and reliable power distribution network.

The new meters will provide staff with advanced tools for diagnosing and troubleshooting power quality issues, enabling faster and more effective responses. They will also support efforts to identify and prioritize energy efficiency improvements, in alignment with both the Clean Buildings Performance Standard and the Port’s Century Agenda goal of becoming the greenest, most energy-efficient port in North America.

***Diversity in Contracting***

The construction services to be procured have a 10% WMBE aspirational goal.

**DETAILS**

***Scope of Work***

Replace and network old and failing electric meters throughout the Aviation campus.

- (1) The meters will be replaced (approximately 750 meters) with the Port standard meters.
  - a. The construction contractor will purchase meters and fiber infrastructure.
- (2) Meters will also be networked into the existing Port of Seattle infrastructure.
  - a. New switches and fiber will need to be installed and purchased to connect some of the new meters into the Port of Seattle network.

***Schedule***

Commission construction authorization	2025 Q3
Construction start	2026 Q1
In-use date	2027 Q3

***Cost Breakdown***

	This Request	Total Project
Design	\$0	\$4,350,000
Construction	\$31,175,000	\$31,175,000
<b>Total</b>	<b>\$31,175,000</b>	<b>\$35,525,000</b>

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**ALTERNATIVES AND IMPLICATIONS CONSIDERED**

**Alternative 1** – Status Quo. Do not proceed with the project.

Cost Implications: Expense approximately \$1,250,000 for design development costs.

Pros:

- (1) Delays or defers capital investment.

Cons:

- (1) Doesn’t update meters to meet current code requirements and pushes work off to the future.
- (2) Meters currently installed do not have easy replacements available, resulting in large maintenance costs.
- (3) Data analysis of current meters is cumbersome for billing and power quality evaluations.

This is not the recommended alternative.

**Alternative 2** – Replace and network meters within the current budget.

Cost Implications: \$35,525,000 in capital costs.

Pros:

- (1) Provides networking for data analysis, load, demand evaluation, and usage billing for tenants.
- (2) Makes meters code compliant (WEC 2018, Clean Building Performance Standard, and IEEE 1547).
- (3) Meters will be easier to maintain being from one manufacturer.

Cons:

- (1) Capital costs.

**This is the recommended alternative.**

**FINANCIAL IMPLICATIONS**

<i>Cost Estimate/Authorization Summary</i>	Capital	Expense	Total
<b>COST ESTIMATE</b>			
Original estimate	\$35,525,000	\$0	\$35,525,000
<b>AUTHORIZATION</b>			
Previous authorizations	\$4,350,000	0	\$4,350,000
Current request for authorization	\$31,175,000	0	\$31,175,000
Total authorizations, including this request	\$35,525,000	0	\$35,525,000
Remaining amount to be authorized	\$0	\$0	\$0

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***Annual Budget Status and Source of Funds***

This project C801240 was included in the 2025-2029 capital budget and plan of finance with a budget of \$35,525,000. The funding sources will be the Airport Development Fund and revenue bonds.

***Financial Analysis and Summary***

Project cost for analysis	\$35,525,000
Business Unit (BU)	Terminal Building
Effect on business performance (NOI after depreciation)	NOI after depreciation will increase due to inclusion of capital (and operating) costs in airline rate base.
IRR/NPV (if relevant)	N/A
CPE Impact	\$0.09 in 2028

***Future Revenues and Expenses (Total cost of ownership)***

As a result of this project, Aviation Maintenance may see a small decrease in preventative maintenance support and less manual meter support. This is due to the new meters being more reliable with spare parts readily available and now the data can be accessed virtually through the fully networked system.

**ATTACHMENTS TO THIS REQUEST**

- (1) Presentation

**PREVIOUS COMMISSION ACTIONS OR BRIEFINGS**

September 13, 2023 – Design Authorization

# Utility Meter Networking Construction Authorization

Abhinav Prasad, AV PMG

Deepak Kaushal, AV F&I



# Action Requested

- Authorization to advertise, award, and execute a major works construction contract.
- Authorization to execute project related change orders, amendments, work authorizations, purchases, and contracts.
- Authorization to use of Port of Seattle crews to support construction activities.
- Authorization for the remaining funds of \$31,175,000 of a total estimated project cost of \$35,525,000.

# Project Scope

- Replacement of outdated electrical meters with new standard electrical meters (approximately 750 meters located throughout the Sea-Tac Airport campus)
- All meters will be networked into existing Port infrastructure.
- Port must comply with Washington State Energy Code for any permitted alterations, repairs, or modifications (WSEC 2018, Section C409, Clean Building Performance Standard, and IEEE 1547).

# Meter Comparison

Existing Meters



- Network integration not possible
- Spare parts not readily available
- Warranty expired



New Meters



- All meters on centralized database
- Network integration possible meeting updated code requirements
- Data easier to access resulting in cost reductions for projects
- Spare parts easily available

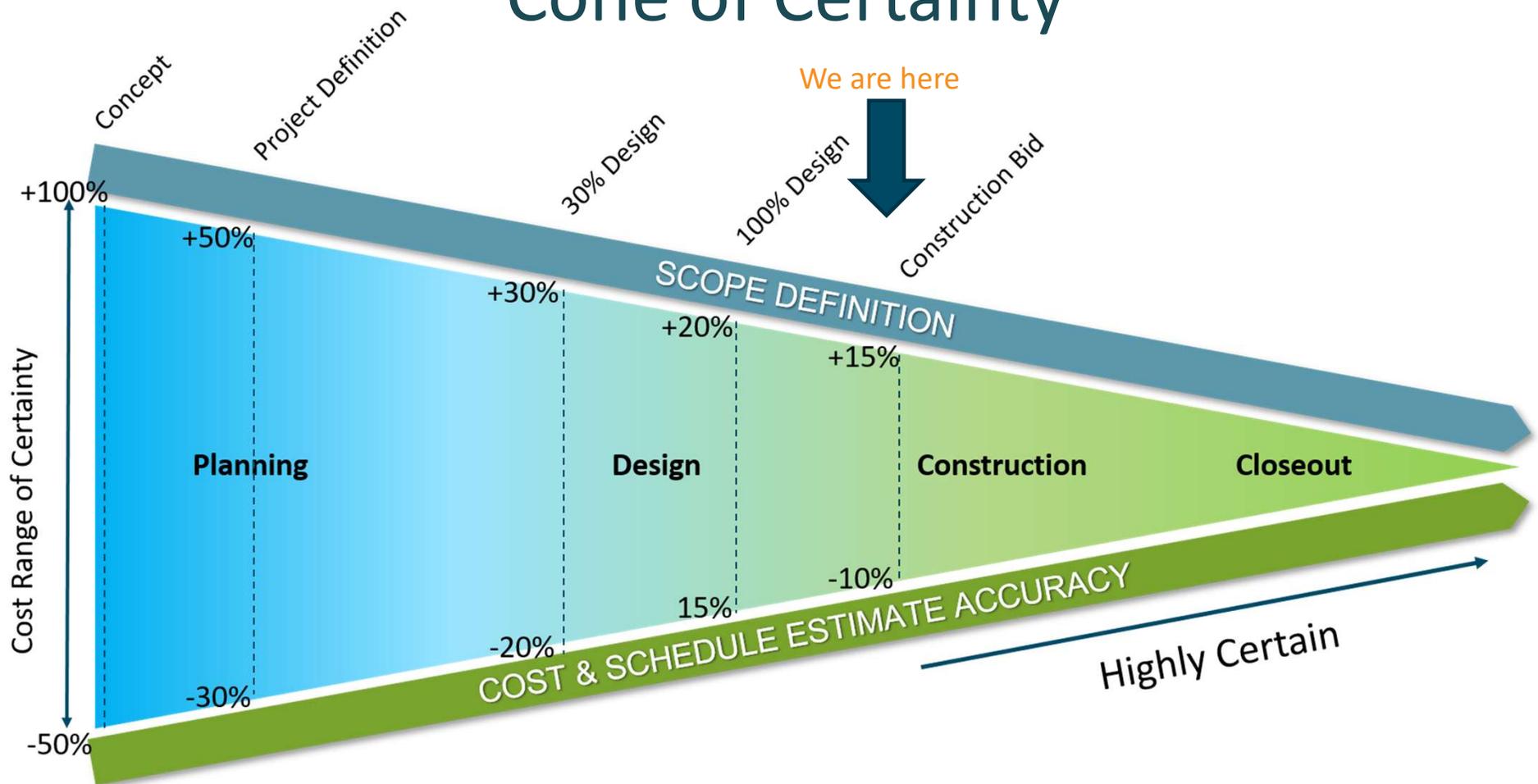
# Project Schedule

Milestone	Date
Commission Design Authorization	Q3 – 2024
Design Start	Q3 - 2024
Commission Construction Authorization	Q3 - 2025
Construction Start	Q1 - 2026
In-Use Date	Q3 - 2027

# Budget

COST ESTIMATE	Capital	ERL	Total
Current Estimate	\$35,525,000	NA	\$35,525,000

# Cone of Certainty



**QUESTIONS?**





**COMMISSION  
AGENDA MEMORANDUM**

**Item No.** 10b

**ACTION ITEM**

**Date of Meeting** September 9, 2025

**DATE:** September 2, 2025

**TO:** Stephen P. Metruck, Executive Director

**FROM:** Eric Schinfeld, Senior Manager, Federal & International Government Relations

**SUBJECT: Introduction of Resolution No. 3838: Amending the Welcoming Port Policy Directive**

**ACTION REQUESTED**

Request Commission introduction of Resolution 3838, a resolution of the Port of Seattle Commission establishing a revised Welcoming Port Policy Directive and amending Resolution No. 3747, in order to demonstrate the Port’s ongoing commitment to supporting immigrants, refugees, and international visitors in line with the Port’s mission and values.

**EXECUTIVE SUMMARY**

The Port of Seattle Commission first adopted its Welcoming Port Policy Directive as Resolution No. 3747 on May 8, 2018 as a way to affirm the Port of Seattle’s commitment to the safety, inclusion, and engagement of immigrants, refugees, and international visitors who interact with our facilities or services. For the Port, this is not only a deeply held value, but also an economic imperative – given how much our facilities rely on both a workforce that includes immigrants as well as international cargo and international passengers.

Since that time, the Port has fully implemented this directive and developed numerous deep partnerships with community groups and organizations to continue expanding the ways in which Port facilities can be welcoming to immigrants, refugees and foreign visitors. In addition, in 2019, the Washington State Legislature passed the Keep Washington Working Act, which made numerous changes to state law for the stated purpose of “ensuring the state of Washington remains a place where the rights and dignity of all residents are maintained and protected in order to keep Washington working.” The Port has fully complied with these mandates.

Given recent changes in federal immigration policies, programs, and practices, the Port Commission seeks to update and expand its strategies to respond to current events and new challenges to the Port’s Welcoming Port vision. The Port of Seattle values the work of our federal partners to keep our facilities safe, and nothing in this Policy Directive is intended to impede the travel facilitation work of federal personnel like U.S. Customs and Border Protection and the U.S. Transportation Security Administration. However, the Port believes strongly that it can continue to uphold its values; be safe and secure; comply with all federal law; and simultaneously be

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welcoming, accessible to all, and supportive of those immigrants, refugees, and foreign visitors who use our facilities.

**DETAILS**

The updated 2025 Welcoming Port Policy Directive aims to advance the following five (5) goals while remaining in accordance with local, state and federal law and within its authority and resources:

- 1) The Port will do everything within its power and resources to make all visitors to its facilities feel welcome, safe, and comfortable when accessing services, benefits, and opportunities.
- 2) The Port will not deny anyone services based on immigration status – whether they are travelers, local residents, or employees of the Port, its tenants, its vendors, or its contractors.
- 3) The Port will take advantage of the broad and diverse resources that already exist in the Puget Sound region to create and enhance partnerships with local immigrant and refugee community stakeholders, advocates, and community-based organizations to identify new or expanded opportunities, where possible, to advance the Port’s goals of being a welcoming gateway.
- 4) The Port will prohibit any Port employees, including Port law enforcement officers, from asking about place of birth, citizenship, or immigration status or collecting information on place of birth, citizenship, or immigration status, and information about family members, except when required by a criminal investigation.
- 5) The Port will not use its resources to facilitate the enforcement of civil immigration law.

To implement this vision, the Port will comply with the following policies:

**A. *Limits on Port Data Collection***

- 1) Related to visitors to Port facilities, applicants for Port grants, and participants in Port programs: All applications, questionnaires, and forms used in relation to the provision of Port opportunities or services shall not include required disclosure of information related to place of birth, citizenship or immigration status.
- 2) Related to travelers through air and cruise gateways: The Port is committed to non-discrimination, data privacy, and the dignity of all travelers, regardless of immigration status. Port employees are prohibited from collecting or sharing the immigration status of travelers.
- 3) Related to Port law enforcement personnel: Consistent with the Keep Washington Working Act, Port law enforcement is prohibited from collecting information about immigration or citizenship data unless there is a demonstrated connection between such information and an investigation into a violation of state or local criminal law. Port law

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enforcement is also prohibited from providing information pursuant to notification requests from federal immigration authorities for the purposes of civil immigration enforcement.

*B. Interpretation and Translation:*

- 1) Commission Order 2023-05 directs the creation of a Language Access Policy. This policy ensures access to translation and interpretation services, as both a value of the Port as well as an essential business requirement. Therefore, to ensure that everyone who engages with the Port feels welcome, the Port will strive to provide free interpretation and translation services for the most prevalent languages spoken in our region. This effort applies to Port employees, job seekers, participants in Port programs, and travelers through our facilities. In addition, the Port will offer access to its translation and interpretation services to federal agencies operating in our facilities, to ensure that their interactions are fully understood by all travelers.
- 2) The Port employs a large number of bilingual and multilingual staff members who assist travelers and members of the public with language interpretation needs on a regular basis, particularly related to travel through our facilities. Bilingual and multilingual staff members may assist travelers and members of the public with language interpretation needs related to basic immigration resources, while ensuring professional interpreters are engaged in issues related to civil immigration law or other sensitive topics beyond their professional expertise.

*C. Compliance with Keep Washington Working and Prohibiting the Use of Port Resources for Immigration Enforcement:*

- 1) The Port will continue to ensure that all employees – including Port law enforcement officers – are committed to welcoming and respectful treatment of immigrants, refugees, and foreign visitors. Consistent with the Keep Washington Working Act, Port law enforcement officers, including both Port of Seattle Police officers and any law enforcement officers contracted by the Port, are prohibited from initiating police action based solely on an individual’s place of birth, citizenship, or immigration status, or using stops for minor offenses or requests for voluntary information as a pretext for discovering a person’s immigration status.
- 2) Furthermore, no Port employee shall expend time, money, or other resources on facilitating the civil enforcement of federal immigration law or participating in civil immigration enforcement operations, except where required by state or federal law, regulation, or a court order.

*D. Detainees:*

- 1) The Port will continue to defer immigration detainer requests from ICE or CBP to King County Jail or SCORE, as the Port does not manage a correctional facility. The Port will comply with the Keep Washington Working Act and will not enter into any contract, agreement, or arrangement that would grant federal civil immigration enforcement authority or power over the Port or its law enforcement officers; nor will Port law

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enforcement carry out a civil arrest based on an administrative warrant separately or in combination with an ICE or CBP detainer request.

- 2) The Port will continue to share its expectations that – when individuals are detained by CBP in the International Arrivals Facility or are being transported through our facilities by federal law enforcement officers– these individuals will have full access to their legal rights and are receiving all federally required and otherwise appropriate treatment.

*E. Partnerships:*

- 1) The Port will work in collaboration with local immigration services, refugee resettlement organizations, and community-based organizations to explore additional ways to use its facilities to support immigrant and refugee communities, including: providing access to information for travelers; potential partnerships on workforce development and economic development; and facilitating refugee arrivals through SEA. In addition, the Port will continue to partner with local organizations to support immigration and citizenship application efforts, including by providing a list of existing resources for individuals who need services that the Port cannot provide, such as access to legal resources.

*F. Safe and Welcoming Workplace:*

- 1) The Port remains steadfastly opposed to harassment and discrimination in our workplace. Port Policy CC-8 – Anti-Harassment prohibits harassment against any employee, including based on national origin or any related characteristic.
- 2) The Port’s immigration-related policies and protocols shall be fully integrated into all relevant aspects of Port operations and administration – including the development of appropriate training programs for Port employees.

*G. Employee Responses to Federal Immigration Policy and Enforcement:*

- 1) The Port prohibits employees from providing federal immigration officials with information about individuals or any other non-public information, or assisting in accessing an area restricted to Port employees or tenants. However, Port employees should not interfere with immigration officials or immigration enforcement actions.
- 2) The Port has developed its Employee Guidance on Immigration training, which includes proper protocols to respond to requests from federal immigration enforcement and to travelers or other visitors to Port facilities seeking guidance related to immigration.

*H. Program Implementation and Evaluation.*

- 1) The Port will formally establish an Immigration Working Group composed of key staff members from throughout the organization. This Working Group will serve as a central point of contact for connecting a broad group of stakeholders to identify, elevate, and develop shared strategies and solutions; streamline and strengthen efforts; and address the most pressing issues related to this topic. The Working Group will have oversight of relevant communications, new program development, and monitoring of this Policy Directive. The Executive Director may disband the working group at their discretion when

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it is no longer needed. The Working Group shall include the Commission President, or their delegate, as an ex officio member of the committee.

- 2) Within three (3) months of the passage of this policy, the Port will create a centralized tracking system to record immigration-related interactions with individuals or federal agencies. This data will be used to identify patterns, training needs, or compliance issues. A summary of these interactions, stripped of identifying details, shall be provided to the Commission no later than six (6) months from the date this tracking system is implemented.
- 3) By December 31, 2025, the Executive Director shall report to the Commission on the implementation and estimated cost of these policies, procedures, and programs.
- 4) Annually, the Executive Director shall empower key staff to conduct a review of Port actions to ensure that staff continue to comply fully with this directive.

**FINANCIAL IMPLICATIONS**

To the extent the Welcoming Port Policy Directive has financial implications, these will be identified and evaluated annually for inclusion in applicable Port of Seattle operating budget proposals to the Port of Seattle Commission.

**ATTACHMENTS**

- (1) Resolution No. 3838 – Amendment to Welcoming Port Policy Directive
- (2) Presentation

**PREVIOUS COMMISSION ACTIONS OR BRIEFINGS**

None

**PORT OF SEATTLE  
RESOLUTION NO. 3838**

**A RESOLUTION** of the Port of Seattle Commission, establishing a revised Welcoming Port Policy Directive and amending Resolution No. 3747, in order to demonstrate the Port’s ongoing commitment to supporting immigrants, refugees, and international visitors in line with the Port’s mission and values.

**WHEREAS**, the Port of Seattle – as both an international gateway and a countywide special purpose government – is committed to supporting the safety, inclusion, and engagement of all members of our community; and

**WHEREAS**, we strive to protect the rights and uphold the dignity of every King County resident and every person who uses our facilities, and to provide fair and equal access to services, benefits, and opportunities; and

**WHEREAS**, the Port has an essential obligation to foster a culture and environment that make it possible for our region to remain a vibrant and welcoming global gateway, through which our immigrant and refugee residents and foreign visitors can fully participate in – and be integrated into – the social, civic, and economic fabric of our region; and

**WHEREAS**, the Port not only has a moral obligation to support immigrant communities, but also an economic imperative, in that every part of our organization depends on connection to the global economy – from the immigrants who work at our facilities to the foreign visitors that utilize our airport and cruise terminals, to the foreign-born workers who create goods and services that travel through our air and sea cargo gateways; and

**WHEREAS**, in 2018, in response to changes in federal immigration policy, the Port of Seattle Commission passed Resolution No. 3747, the Welcoming Port Policy Directive, as a way to formally demonstrate the Port’s commitment to supporting immigrants, refugees, and international visitors; and

**WHEREAS**, the year 2025 has once again brought immigrant, refugee, and foreign visitor issues to the forefront though changes in federal policy that have the potential to conflict with the full exercise of the Port’s values and our ability to continue to be a fully welcoming gateway; and

**WHEREAS**, we are concerned for the safety and dignity of our region’s immigrant and refugee residents; and

47           **WHEREAS**, we are concerned about the impact of these federal immigration policy  
48 changes on international tourism through our gateway – particularly in advance of the 2026 FIFA  
49 World Cup, which has the opportunity to bring economic and tourism benefits to our region; and  
50

51           **WHEREAS**, in response to these national policies, the Port has been instituting new  
52 programs, policies, and partnerships to address any uncertainty and fear that these federal policy  
53 changes may have created; and  
54

55           **WHEREAS**, while the Port of Seattle’s essential relationship with federal agency partners  
56 allows us to operate our air and sea gateways and to keep them safe, the Port can continue to uphold  
57 its values; be safe and secure; comply with all federal law; and simultaneously be welcoming,  
58 accessible to all, and supportive of those immigrants, refugees, and foreign visitors who use our  
59 facilities.  
60

61           **NOW, THEREFORE, BE IT RESOLVED** by the Port of Seattle Commission as follows:  
62

63           SECTION 1. The amended Welcoming Port Policy Directive as shown in the attached Exhibit  
64 A is hereby adopted in order to advance the following five (5) goals while remaining in accordance  
65 with local, state and federal law and within its authority and resources:  
66

- 67           a) First and foremost, the Port will do everything within its power and resources to make all  
68 visitors to its facilities feel welcome, safe, and comfortable when accessing services,  
69 benefits, and opportunities.  
70
- 71           b) The Port will not deny anyone services based on immigration status – whether they are  
72 travelers, local residents, or employees of the Port, its tenants, its vendors, or its  
73 contractors.  
74
- 75           c) The Port will take advantage of the broad and diverse resources that already exist in the  
76 Puget Sound region to create and enhance partnerships with local immigrant and refugee  
77 community stakeholders, advocates, and community-based organizations to identify new  
78 or expanded opportunities, where possible, to advance the Port’s goals of being a  
79 welcoming gateway.  
80
- 81           d) The Port will prohibit any Port employees, including Port law enforcement officers, from  
82 asking about place of birth, citizenship, or immigration status or collecting information on  
83 place of birth, citizenship, or immigration status, and information about family members,  
84 except when required by a criminal investigation.  
85
- 86           e) The Port will not use its resources to facilitate the enforcement of civil immigration law.  
87

88           SECTION 2. The policy directive contained in Exhibit A and attached to this resolution shall  
89 be labeled and catalogued as appropriate, together with other Commission Policy Directives, and  
90 shall be made readily available for use by Port staff and members of the public as a governance  
91 document of the Port of Seattle.  
92

93            SECTION 3. Scrivener’s Errors. The Commission Clerk is hereby authorized to execute  
94 scrivener’s error revisions in finalizing amendments to the policy directive made through adoption  
95 of this resolution, as needed, to address technical corrections.  
96

97            SECTION 4. Effective Date. This resolution is effective upon adoption.  
98

99            **ADOPTED** by the Port of Seattle Commission at a duly noticed public meeting thereof,  
100 held this \_\_\_ day of September, 2025, and duly authenticated by the signatures of the  
101 commissioners voting in favor thereof and the seal of the commission.  
102

103 \_\_\_\_\_

104 \_\_\_\_\_

105 \_\_\_\_\_

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109 Port of Seattle Commission  
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139 **EXHIBIT A to Resolution 3838**

140 **WELCOMING PORT POLICY DIRECTIVE**

141 **As proposed September 9, 2025**

142

143

144 **SECTION 1. Purpose.**

145 A. The purpose of this policy directive is to reaffirm the Port of Seattle’s commitment to the safety,  
146 inclusion, and engagement of immigrants, refugees, and international visitors who interact with  
147 our facilities or services.

148

149 B. The Port Commission seeks to update and expand its strategies to respond to current events and  
150 shifting national policies that create new opportunities and challenges to fulfill the Port’s  
151 Welcoming Port vision.

152

153 C. The Port aims to foster a culture and environment that make it possible for our region to remain  
154 a vibrant and welcoming global gateway where our immigrant communities, refugee residents,  
155 and foreign visitors can fully participate in – and be integrated into – the social, civic, and  
156 economic fabric of our region.

157

158 D. For the Port of Seattle, this is not only a deeply held value, but also an economic imperative –  
159 given how much our facilities rely on both a workforce that includes immigrants as well as  
160 international cargo and international passengers.

161

162 E. The Port first adopted its Welcoming Port Policy Directive as Resolution 3747 on May 8, 2018.  
163 Since that time, the Port has fully implemented this directive, and developed numerous deep  
164 partnerships with community groups and organizations to continue expanding the ways in which  
165 Port facilities can be welcoming to immigrants, refugees and foreign visitors. For example:

- 166
- 167 • Commission Order 2023-05 (Language Access Policy);
  - 168 • Providing space for OneAmerica Citizenship Application Workshops; and
  - 169 • Collaborating with World Relief case workers on refugee arrivals at Seattle-Tacoma  
170 International Airport (SEA).

171 F. In addition, in 2019, the Washington State Legislature passed the Keep Washington Working  
172 Act, which made numerous changes to state law for the stated purpose of “ensuring the state of  
173 Washington remains a place where the rights and dignity of all residents are maintained and  
174 protected in order to keep Washington working.” The Port has fully complied with these mandates,  
175 and is updating this Welcoming Port Policy accordingly.

176

177 G. The Port of Seattle values the work of our federal partners to keep our facilities safe, and nothing  
178 in this Policy Directive is intended to impede the travel facilitation work of federal personnel like  
179 U.S. Customs and Border Protection and the U.S. Transportation Security Administration.

180

181 **SECTION 2. Definitions.**

182

183 When used in this policy directive, the following words and phrases shall have the meanings given  
184 below unless the context clearly indicates otherwise:

185  
186 “Administrative warrant” means a noncriminal immigration warrant of arrest, order to detain or  
187 release aliens, notice of custody determination, notice to appear, removal order, warrant of  
188 removal, or any other document, issued by Immigration and Customs Enforcement (ICE), Customs  
189 and Border Protection (CBP), or U.S. Citizenship and Immigration Services (USCIS) that can form  
190 the basis for a person’s arrest or detention for a civil immigration enforcement purpose. ICE  
191 administrative warrant forms include the U.S. DHS form I-200 (Rev. 09/16) “Warrant for Arrest  
192 of Alien” and Form I-205 “Warrant of Removal/Deportation,” as well as predecessor and successor  
193 versions. “Administrative warrant” does not include any criminal warrants issued upon a judicial  
194 determination of probable cause and in compliance with the Fourth Amendment to the United  
195 States Constitution.

196  
197 “Citizenship or immigration status” means a person’s recorded citizenship or immigration status,  
198 as such status is defined in the Immigration and Nationality Act, at the time an agent or agency  
199 receives the information.

200  
201 “Civil immigration enforcement operation” means an operation that has as one of its objectives  
202 the identification, apprehension or transport of a person or persons in order to investigate them for  
203 a violation of the immigration laws and subject them to one or more of the following:  
204 1. Civil immigration detention;  
205 2. Removal proceedings; or  
206 3. Removal from the United States.

207  
208 “Immigration detainer” means a request by ICE to a federal, state, or local law enforcement agency  
209 to provide notice of release or maintain custody of a person based on an alleged violation of a civil  
210 immigration law. “Immigration detainer” includes a detainer issued under Sections 236 or 287 of  
211 the Immigration and Nationality Act or 287.7 or 236.1 of Title 8 of the Code of Federal  
212 Regulations. “Immigration detainer” includes a detainer issued under DHS form I-274A entitled  
213 Immigration Detainer – Notice of Action, as well as predecessor and successor versions.

214  
215 **SECTION 3. Scope and Applicability.**

- 216  
217 A. This policy directive pertains to the activities of Port of Seattle employees; all policies in  
218 this directive are bounded by the parameters set by local, state and federal law, and the Port  
219 is expected to implement this directive in ways that are legally compliant.  
220  
221 B. Nothing in this directive shall be interpreted to prohibit Port employees from engaging  
222 productively with federal agency personnel in the normal course of port-related business,  
223 including travel facilitation or participating with local or federal law enforcement  
224 authorities for other criminal law enforcement activities.  
225  
226 C. In accordance with 8 U.S.C. Sec. 1373, nothing in this directive prohibits any Port agent  
227 or employee from sending to, or receiving from, federal immigration authorities, the  
228 citizenship or immigration status of a person when required by federal law. Also, nothing  
229 in this directive prohibits any Port agent or employee from sending to, receiving from,  
230 requesting from or exchanging with any federal, state or local government agency

231 information regarding the immigration status of a person or from maintaining such  
232 information, when required by federal law.

233  
234 **SECTION 4. Responsibilities.**

235  
236 A. The Executive Director shall ensure the policies and procedures in use by employees of the  
237 Port of Seattle are consistent with the principles of this policy directive, and shall  
238 promulgate such additional policies and procedures as may be needed to operationalize the  
239 intent of this policy directive.

240  
241 B. The Executive Director shall ensure that Port employees are appropriately informed and  
242 trained on the provisions of these policies on a regular basis to ensure compliance with  
243 both the substance and intention of this document.

244  
245 **SECTION 5. Policy.**

246  
247 **A. Limits on Port Data Collection**

248 1) *Related to visitors to Port facilities, applicants for Port grants, and participants in Port*  
249 *programs:* All applications, questionnaires, and forms used in relation to the provision of Port  
250 opportunities or services shall not include required disclosure of information related to place  
251 of birth, citizenship or immigration status.

252  
253 2) *Related to travelers through air and cruise gateways:* The Port is committed to non-  
254 discrimination, data privacy, and the dignity of all travelers, regardless of immigration status.  
255 Port employees are prohibited from collecting or sharing the immigration status of travelers.

256  
257 3) *Related to Port law enforcement personnel:* Consistent with the Keep Washington Working  
258 Act, Port law enforcement is prohibited from collecting information about immigration or  
259 citizenship data unless there is a demonstrated connection between such information and an  
260 investigation into a violation of state or local criminal law. Port law enforcement is also  
261 prohibited from providing information pursuant to notification requests from federal  
262 immigration authorities for the purposes of civil immigration enforcement.

263  
264 **B. Interpretation and Translation:**

265 1) Commission Order 2023-05 directs the creation of a Language Access Policy. This policy  
266 ensures access to translation and interpretation services, as both a value of the Port as well as  
267 an essential business requirement. Therefore, to ensure that everyone who engages with the  
268 Port feels welcome, the Port will strive to provide free interpretation and translation services  
269 for the most prevalent languages spoken in our region. This effort applies to Port employees,  
270 job seekers, participants in Port programs, and travelers through our facilities. In addition, the  
271 Port will offer access to its translation and interpretation services to federal agencies operating  
272 in our facilities, to ensure that their interactions are fully understood by all travelers.

273  
274 2) The Port employs a large number of bilingual and multilingual staff members who assist  
275 travelers and members of the public with language interpretation needs on a regular basis,  
276 particularly related to travel through our facilities. Bilingual and multilingual staff members

277 may assist travelers and members of the public with language interpretation needs related to  
278 basic immigration resources, while ensuring professional interpreters are engaged in issues  
279 related to civil immigration law or other sensitive topics beyond their professional expertise.  
280

281 **C. Compliance with Keep Washington Working and Prohibiting the Use of Port Resources**  
282 **for Immigration Enforcement:**

- 283 1) The Port will continue to ensure that all employees – including Port law enforcement officers  
284 – are committed to welcoming and respectful treatment of immigrants, refugees, and foreign  
285 visitors. Consistent with the Keep Washington Working Act, Port law enforcement officers,  
286 including both Port of Seattle Police officers and any law enforcement officers contracted by  
287 the Port, are prohibited from initiating police action based solely on an individual’s place of  
288 birth, citizenship, or immigration status, or using stops for minor offenses or requests for  
289 voluntary information as a pretext for discovering a person’s immigration status.  
290
- 291 2) Furthermore, no Port employee shall expend time, money, or other resources on facilitating the  
292 civil enforcement of federal immigration law or participating in civil immigration enforcement  
293 operations, except where required by state or federal law, regulation, or a court order.  
294

295 **D. Detainees:**

- 296 1) The Port will continue to defer immigration detainer requests from ICE or CBP to King County  
297 Jail or SCORE, as the Port does not manage a correctional facility. The Port will comply with  
298 the Keep Washington Working Act and will not enter into any contract, agreement, or  
299 arrangement that would grant federal civil immigration enforcement authority or power over  
300 the Port or its law enforcement officers; nor will Port law enforcement carry out a civil arrest  
301 based on an administrative warrant separately or in combination with an ICE or CBP detainer  
302 request.  
303
- 304 2) The Port will continue to share its expectations that – when individuals are detained by CBP  
305 in the International Arrivals Facility or are being transported through our facilities by federal  
306 law enforcement officers– these individuals will have full access to their legal rights and are  
307 receiving all federally required and otherwise appropriate treatment.  
308

309 **E. Partnerships:**

- 310 1) The Port will work in collaboration with local immigration services, refugee resettlement  
311 organizations, and community-based organizations to explore additional ways to use its  
312 facilities to support immigrant and refugee communities, including: providing access to  
313 information for travelers; potential partnerships on workforce development and economic  
314 development; and facilitating refugee arrivals through SEA. In addition, the Port will continue  
315 to partner with local organizations to support immigration and citizenship application efforts,  
316 including by providing a list of existing resources for individuals who need services that the  
317 Port cannot provide, such as access to legal resources.  
318

319 **F. Safe and Welcoming Workplace:**

- 320 1) The Port remains steadfastly opposed to harassment and discrimination in our workplace. Port  
321 Policy CC-8 – Anti-Harassment prohibits harassment against any employee, including based  
322 on national origin or any related characteristic.

323  
324 2) The Port’s immigration-related policies and protocols shall be fully integrated into all relevant  
325 aspects of Port operations and administration – including the development of appropriate  
326 training programs for Port employees.

327  
328 **G. Employee Responses to Federal Immigration Policy and Enforcement:**  
329 1) The Port prohibits employees from providing federal immigration officials with information  
330 about individuals or any other non-public information, or assisting in accessing an area  
331 restricted to Port employees or tenants. However, Port employees should not interfere with  
332 immigration officials or immigration enforcement actions.

333  
334 2) The Port has developed its *Employee Guidance on Immigration* training, which includes proper  
335 protocols to respond to requests from federal immigration enforcement and to travelers or other  
336 visitors to Port facilities seeking guidance related to immigration.

337  
338 **SECTION 6. Program Implementation & Evaluation.**

339  
340 **A. Establishment of a Port Immigration Working Group:**

341 1) The Port will formally establish an Immigration Working Group composed of key staff  
342 members from throughout the organization.  
343 a. This Working Group will serve as a central point of contact for connecting a broad group  
344 of stakeholders to identify, elevate, and develop shared strategies and solutions; streamline  
345 and strengthen efforts; and address the most pressing issues related to this topic.  
346 b. The Working Group will have oversight over relevant communications, new program  
347 development, and monitoring of this Policy Directive.  
348 c. The Executive Director may disband the working group at their discretion when it is no  
349 longer needed.  
350 d. The Working Group shall include the Commission President, or their delegate, as an ex  
351 officio member of the committee.

352  
353 **B. Tracking and Reporting**

354 2) Within three (3) months of the passage of this policy, the Port will create a centralized tracking  
355 system to record immigration-related interactions with individuals or federal agencies. This  
356 data will be used to identify patterns, training needs, or compliance issues. A summary of these  
357 interactions, stripped of identifying details, shall be provided to the Commission no later than  
358 six months from the date this tracking system is implemented.

359  
360 3) By December 31st, 2025, the Executive Director shall report to the Commission on the  
361 implementation and estimated cost of these policies, procedures, and programs.

362  
363 4) Annually, the Executive Director shall empower key staff to conduct a review of Port actions  
364 to ensure that staff continue to comply fully with this directive.

365  
366 **SECTION 7. Findings.**

367  
368 A. Engaging with people from around the world is essential to the success of the Port

369 of Seattle – both morally and economically:  
370

371 (1) We benefit from international travelers who use our airport and cruise terminals, and  
372 who drive the continued expansion of new direct international flights in and out of SEA –  
373 which we estimate to generate between \$80-100 million annually for each new route.  
374

375 (2) We thrive when international goods are shipped through our container terminals or our  
376 air cargo facilities.  
377

378 (3) We celebrate the 500,000 pounds of seafood shipped through Port facilities each year,  
379 caught by the hundreds of North Pacific fishing boats that homeport at Fishermen’s  
380 Terminal – including many foreign-born crew members.  
381

382 (4) We know that immigrants are key to the creation of so many Washington goods and  
383 services – from Eastern Washington agricultural products that we ship via the seaport and  
384 airport to technology companies and global health organizations that utilize our airport to  
385 connect with customers, clients, and partners.  
386

387 (5) We welcome the thousands of immigrants who work at the port itself, and those who  
388 work for other companies and at or around our facilities such as concessionaires, taxi, and  
389 rideshare drivers serving our airport and cruise terminals, truck drivers at the seaport, and  
390 the crews of cruise ships and container ships. We encourage their participation in the  
391 family-wage jobs that the Port helps create.  
392

393 (6) We rely on our immigrant and refugee residents to foster both economic growth and  
394 cultural vibrancy, and we benefit tremendously from the large number of diverse  
395 immigrants and refugees who contribute to the development of a diverse and enriched  
396 community.  
397

398 B. As a global gateway, these issues are particularly relevant to our region and state. In King  
399 County, Washington, approximately 25% of all residents are foreign-born, as are approximately  
400 43% of all public-school students in King County. Some of our most famous residents,  
401 entrepreneurs, elected officials, and business leaders are foreign born, all of which have created  
402 benefits for everyone in the Puget Sound region.  
403

404 C. In 2019, the Washington State Legislature passed the Keep Washington Working Act, which  
405 made numerous changes to state law for the stated purpose of “ensuring the state of Washington  
406 remains a place where the rights and dignity of all residents are maintained and protected in order  
407 to keep Washington working.”  
408

409 D. Since January 20, 2025, the federal government has issued numerous Executive Orders,  
410 instituted new policies, and changed long-standing practices to significantly increase immigration  
411 enforcement, cease refugee admissions, and to deny benefits and opportunities to non-citizens.  
412

413 E. On July 1, 2025, the King County Council's Health, Housing and Human Services Committee  
414 passed Proposed Substitute Motion 2025-0173.2, which expressed the Council's commitment to  
415 welcoming and actively supporting immigrants and refugees.

# Resolution 3838: 2025 Welcoming Port Policy Directive

Eric Schinfeld, Senior Manager,  
Federal & International Government Relations



# Action Requested

- “First Reading” of a 2025 Welcoming Port Policy Directive
- Updates 2018 Welcoming Port Policy Directive
- Reaffirms and enhances the Port’s commitment to immigrants, refugees and international visitors
- Institutionalizes existing, ongoing efforts at the Port

## Background

- In 2018, Port Commission passed the first Welcoming Port Policy in response to federal policies and programs at the time – particularly the “Travel Ban” Executive Order
- Since that time, the Port has fully implemented this policy, and incorporated WA’s “Keep Washington Working” law
- The significant increase/changes in federal policies, programs and activities related to immigration and international travel make it appropriate to update/enhance/reaffirm this policy

# Key Provisions

- Make all visitors to its facilities feel welcome, safe, and comfortable.
- Not deny anyone services based on immigration status.
- Create and enhance partnerships with local immigrant and refugee stakeholders
- Prohibit Port employees from asking about or collecting immigration status, except when required by a criminal investigation.
- Not use resources to facilitate the enforcement of civil immigration law.

# Implementation

## **Specific Port Policies:**

- Limits on Port Data Collection
- Interpretation and Translation
- Compliance with Keep Washington Working
- Prohibiting the Use of Port Resources for Immigration Enforcement
- Deferral of immigration detainer requests
- Appropriate treatment of detainees by federal law enforcement
- Partnerships
- Safe and Welcoming Workplace
- Employee Responses to Federal Immigration Policy and Enforcement

## **Administration:**

- Training
- Budget
- Establishment of an Immigration Working Group
- Creation of Tracking Systems
- Reporting

**QUESTIONS?**





**COMMISSION  
AGENDA MEMORANDUM**

**Item No.** 10c

**ACTION ITEM**

**Date of Meeting** September 9, 2025

**DATE:** September 2, 2025

**TO:** Stephen P. Metruck, Executive Director

**FROM:** Robert Brown, Program Manager & Data Analyst for Maritime & Green Jobs,  
Workforce Development  
Anna Pavlik, Director, Workforce Development  
Bookda Gheisar, Senior Director, Office of Equity, Diversity, and Inclusion

**SUBJECT: Evaluation of Youth Maritime Career Launch Pilot and Authorization Request for Maritime Workforce Investments Phase 1**

**Amount of this request:** \$2,170,000

**ACTION REQUESTED**

Request Commission to authorize the development and implementation of an Expanded Maritime Workforce Investment Strategy and authorizing the Executive Director to execute contracts for the first phase of a new maritime workforce investment strategy for the next three years (2026 – 2028). This delegation of authority will direct the Port of Seattle to contract up to a total of \$2.17 million to organizations providing recruitment, employer engagement, job training, and career services in the maritime industry.

**EXECUTIVE SUMMARY**

Expiring in October 2025, the three-year Youth Maritime Career Launch pilot experienced both successes and challenges in creating career pathways for youth (18-24) in the maritime industry. Based on this pilot, the Office of Equity, Diversity and Inclusion (OEDI) is recommending a strategy shift, moving away from building maritime career awareness through internships to investing in credential training and career services with increased employer commitment. OEDI also recommends expanding services to all adults in near-port communities, and to do so, would contract with training provider(s), community-based organizations, and an industry liaison to provide community outreach, recruitment of job seekers, employer collaboration, maritime job training, and ongoing career support. The partners will deliver a model that aligns in-depth training with industry needs, develops sector-specific career services (e.g., shoreside and

Meeting Date: September 9, 2025

underway employment tracks), and provides continuous career support while participants are in training, looking for work, and after they are employed.

### **JUSTIFICATION**

OEDI staff evaluated the outcomes of the Youth Maritime Career Launch and met with current partners, Port staff, industry associations, training providers, and the Northwest Center of Excellence for Marine Manufacturing & Technology to determine what an expanded program could look like. Incorporating this feedback, OEDI proposed funding and programming will serve both of the Century Agenda's Workforce Development goals – (1) to create equitable access to port-related careers and (2) to leverage Port impact and innovation by both increasing the supply of diverse workers prepared to work in the maritime industry and increasing the supply of employers willing and prepared to hire and support those workers. This investment strategy will help meet the interests and needs of maritime employers while also preparing community members for quality, family-wage careers in the maritime sector, not just jobs.

### **DETAILS**

#### ***Youth Maritime Career Launch Evaluation***

In February 2022, the Commission enacted a three-year Youth Career Launch Order (2022-02) to determine how to implement a permanent and sustainable maritime youth employment program for young people between the ages of 16-24; to provide Workforce Development preparation and launch opportunities in port-related industries; and to align with other Port, regional, and state priorities. In April 2022, the Commission added \$2 million to the pilot fund from the Maritime Division, bringing the total to \$4.1 million (2022-05) and directed Port staff to return in 2024 to report on program evaluation and recommendations. In October 2024, the Commission extended the pilot through December 2025 (2024-11).

The Youth Maritime Career Launch pilot was developed during COVID as part of the Opportunity Youth Initiative and sought to provide an entry point for diverse youth ages 18-24 into the historically male, white dominated maritime industry. The pilot taught youth about maritime careers, offered 1–2-week trainings for OSHA and STCW credentials, and provided a 3-month paid internship to participants based on training completion and employer availability. Participants exited the program with new skills, work experience, and entry-level industry credentials. The pilot offered some support for alumni, but it did not result in the permanent hire of many participants (5 reported). The contracts with Washington Maritime Blue and Urban League expire in October 2025.

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Outcomes from the work include the following:

<b>Youth Maritime Career Launch</b>	<b>2023</b>	<b>2024*</b>	<b>2025 YTD</b>	<b>TOTAL</b>
Enrollments	40	33	30	100
Training Completions	25	28	30	83
Youth in Internships	18	24	23	65
Internship Sites	10	9	12	18
Hourly Intern Wage	\$19.14	\$21.09	\$21.09	\$20.60

*\*Two cohorts*

<b>Youth Maritime Career Launch by Race and Gender (2023 - 2025)</b>	<b>Percentage of Enrollments</b>
Black/African-American	69%
Asian	7%
Latinx	12%
Two or more races	7%
Male	78%
Female	20%
Non-binary	2%

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***Lessons Learned***

Below is an overview of the lessons learned from the Youth Maritime Career Launch pilot.

**Successes:**

- More employer hosts in years 2 and 3, including better commitment with shoreside employers and employers with aligned missions.
- Partnerships with community-based organizations helped build trust and connect youth to maritime opportunities.
- Hands-on exposure to maritime careers sparked genuine interest and helped youth see themselves in the industry.

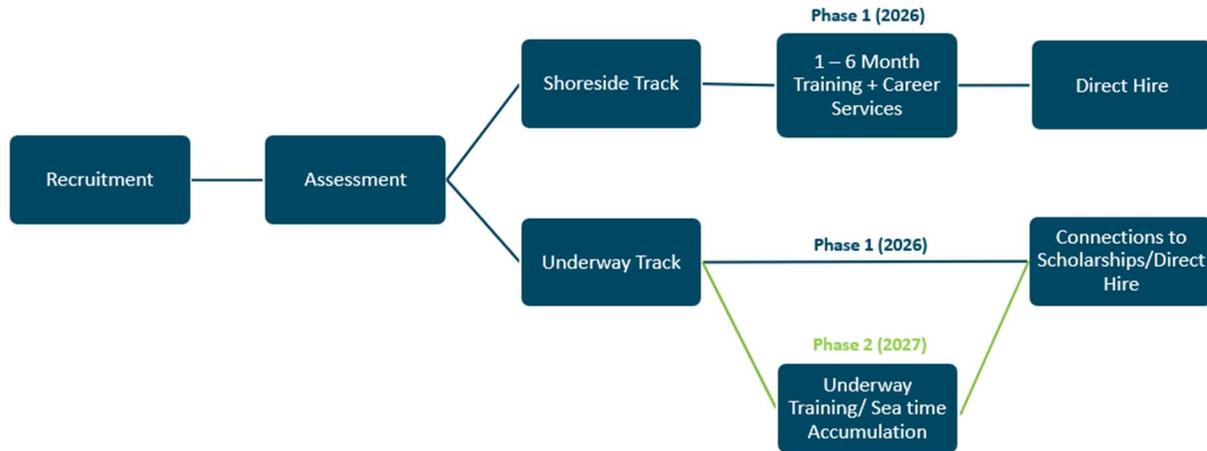
**Challenges:**

- Hard to gain buy-in for "at sea" employers due to internship parameters (schedule, stipend amount, relevant training prior).
- Participants needed more hands-on technical training upfront, as employers had limited capacity to train from the ground up or onboard interns without prior skills.
- Youth face accessibility and cultural barriers to employment.
- Contract deliverables could have been tied to performance-based outcomes.
- Difficult for non-profit community partners to build relationships in a historically white, male-dominated private industry.

***Proposed New Model***

The Port seeks to hire several partners to build off lessons learned in YMCL and increase near-port community access to maritime careers and meet employer demand. OEDI is proposing to shift from building maritime career awareness through internships to providing career navigation services and additional training to connect near-port community members to maritime careers. In Phase 1, OEDI will solicit partners in 2026 to focus on training and placing individuals in shoreside maritime careers. OEDI is also preparing for a longer-term plan which will be reviewed by commission separately in Phase 2. We are exploring the development of additional hands-on training opportunities for underway careers in Phase 2. This future phase would also leverage our community partners to provide guidance for participants pursuing advanced underway maritime education, including support with scholarship applications. As this concept evolves, we will work with our community partners to identify opportunities and resources that strengthen underway training and maritime career awareness building.

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Recruitment, case management, and career preparation services

OEDI is positioned to contract a community-based organization(s) to recruit, build maritime career awareness, assess career pathway options, and prepare participants for training and employment to transition from low-wage jobs to higher-paying maritime careers. Our partnership with Washington Alliance for Better Schools (WABS) supports the development of STEM curriculum for elementary and middle school students, enabling educators to introduce and sustain maritime career awareness in the classroom. Through Core Plus Maritime, we are also advancing STCW-aligned curriculum for grades 6–12 to prepare students for the 40-hour basic training required for entry-level deck positions upon turning 18. Under this model, community based organization(s) will recruit from Maritime High School, the Suquamish and Muckleshoot nations, Duwamish residents, as well as South King County Community Impact Fund recipients and other workforce development partners, to deepen recruitment efforts and connect community organizations providing career awareness programming with these more intensive job training and career placement services.

Job Training

In Phase 1, OEDI is prepared to contract a training program(s) to offer 1 – 6-month industry-recognized, post-secondary education to prepare participants to be hired into the industry. Examples include:

- Maritime Shipyard Training Programs
- Pre-Apprenticeships
- Additional trainings, certifications, and qualifications (i.e., TWIC, MMC, SCTW, OSHA 10, sea time accumulation)

Individuals with maritime industry experience who are not in need of training will be directly sent to the industry liaison for career placement services.

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Career placement services

OEDI plans to engage employers throughout the assessment, training, and job placement phases to ensure participants are fully prepared for direct hire. OEDI anticipates hiring an industry liaison to work closely with industry associations and individual employers to engage them in planning with community-based organization(s) and training provider(s).

***Schedule***

OEDI’s goal is to release solicitations as soon as possible for Phase 1 services and enter in contract in Q2 2026 with services provided Q3 2026 – Q4 2028. OEDI will report outcomes annually in the annual workforce development report, return to commission for Phase 2 and continue to monitor impact with internal and external stakeholders.

**ALTERNATIVES AND IMPLICATIONS CONSIDERED**

**Alternative 1** – Do not release these funds.

Cost Implications: Up to \$2.17M in the next three years.

Pros:

- (1) Reduces staff time for project delivery support, potentially freeing time for other efforts.
- (2) Allows resources to fund other priorities or programs.

Cons:

- (1) The Port would be challenged to meet our workforce development policy directive and Century Agenda goal to offer workforce development recruitment and career services and support in the maritime industry.
- (2) The Port would miss an opportunity to develop cohorts of local skilled workers ready to fill maritime workforce needs.

This alternative is not recommended.

**Alternative 2** – Continue the Youth Maritime Career Launch program by resoliciting for the same services.

Cost Implications: Funding remains limited to youth internships instead of meeting employer demand, however, there would be no new associated costs.

Pros:

- (1) Provides career awareness and work experience for young people in maritime occupations.
- (2) The brand of the “Youth Maritime Career Launch” has gained visibility within the community and among some employers, which helps outreach, participant recruitment, and reduces startup time.

Meeting Date: September 9, 2025

Cons:

- (1) Does not result in many residents being placed in maritime careers.
- (2) The disconnect between training activities and actual maritime job opportunities continues. Participants may complete the program without clear or immediate opportunities for employment.
- (3) Maritime employers cannot often host short-term interns and prefer hiring individuals with technical training, making the current internship-first model hard to sustain.

This alternative is not recommended.

**FINANCIAL IMPLICATIONS**

The request of \$2.17 million for the next three years of Phase 1 (2026 – 2028) is a decrease in budget compared to past funding of \$4.1 million over the course of four years (2022 – 2025). However, overall spend for the YMCL pilot was much lower at \$1.6 million to date so the proposed Phase 1 budget is projected to be an increase over past spending. Phase 2 will be budgeted and authorized separately.

<b><i>Cost Estimate/Authorization Summary</i></b>	Capital	Expense	Total
<b>COST ESTIMATE</b>			
Original estimate	\$	\$2.17 million	\$2.17 million
<b>AUTHORIZATION</b>			
Previous authorizations	0	\$4.1 million (2022-05)	\$4.1 million (2022-05)
Current request for authorization	0	\$2.17 million	\$2.17 million
Total authorizations, including this request	0	\$6.27 million	\$6.27 million
Remaining amount to be authorized	\$0	\$0	\$0

***Annual Budget Status and Source of Funds***

The Office of Equity, Diversity, and Inclusion intends to use tax levy funds to pay for these services. The 2026 portion of \$670,000 is already included in the 2026 baseline budget.

**ATTACHMENTS TO THIS REQUEST**

- (1) Presentation Slides

**PREVIOUS COMMISSION ACTIONS OR BRIEFINGS**

- 1) February 8, 2022, the Commission enacted a three-year Youth Career Launch Order (2022-02) to determine how to implement a permanent and sustainable youth employment program that connects young people between the ages of 16-24.

Meeting Date: September 9, 2025

- 2) April 12, 2022, the Commission added \$2 million to the pilot fund to bring the total to \$4.1 million (2022-05) and directed Port staff to return in 2024 to report on program evaluation and recommendations.
- 3) October 8, 2024, the Commission extended the pilot through Dec. 2025 (2024-11).

# MARITIME WORKFORCE INVESTMENTS

Presented By: Anna Pavlik and Robert Brown III



# Commission Orders

## Career launch pilot in the maritime industry for Puget Sound youth and adults aged 16-24 years

### 2022-02

Establish Youth Career Launch initiative with \$2.1M to pilot workforce development preparation and launch opportunities for youth

### 2022-05

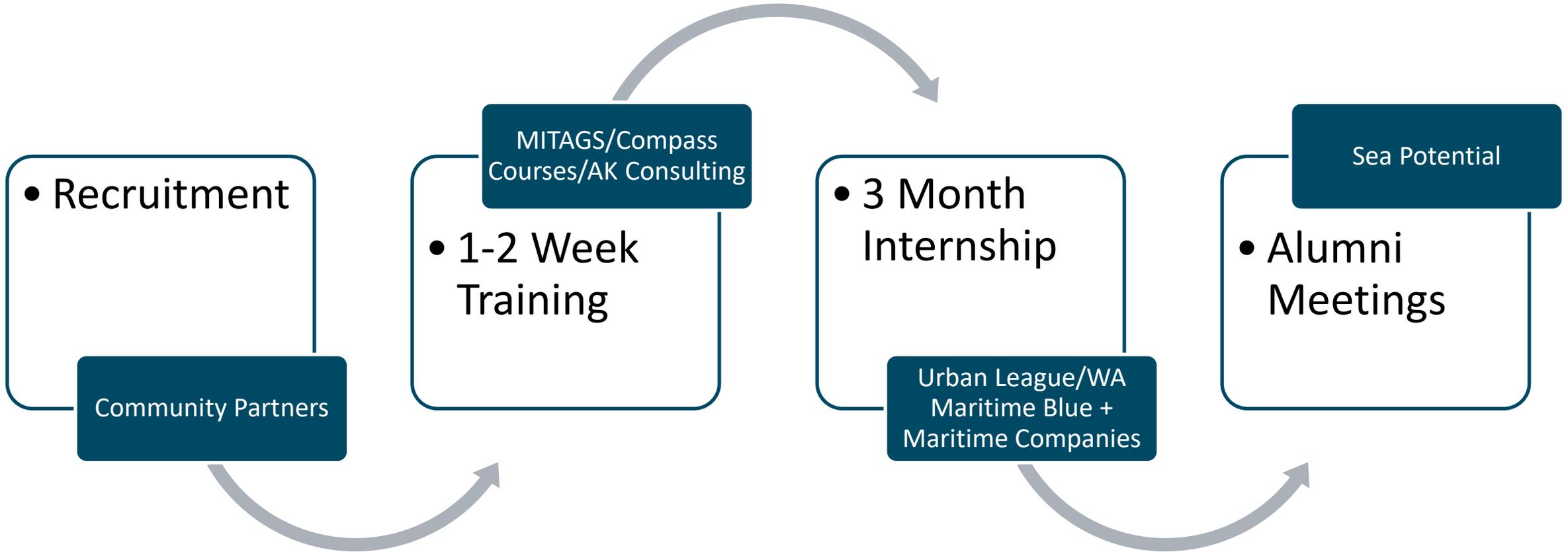
Increase the three-year investment in the Youth Career Launch Program from \$2.1 million to \$4.1 million

### 2024-11

Extend Youth Maritime Career Launch one more year through 2025

# Youth Maritime Career Launch

Guided pathway to entry-level maritime careers for young adults (18-24) furthest away from opportunity.



# Youth Maritime Career Launch

Guided pathway to entry-level maritime careers for young adults (18-24) furthest away from opportunity.

**Budget:** \$4.1M (2022 -2025)

**Projected Spend:** \$2.04M (2023 – Q4 2025)

Recruit youth (via subcontractors), identify internship sites, convene employers, prepare and support youth before and during internships

- Washington Maritime Blue (\$763k, 3 years)
- Urban League of Metro Seattle (\$581k, 3 years)
- PolyTech (\$200k, CLOSED)

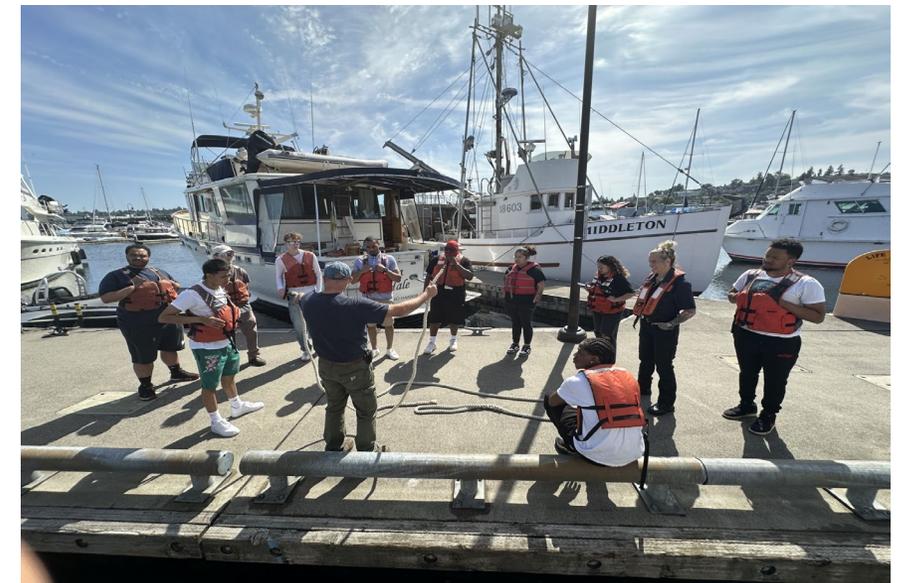
Provide retention services

- Sea Potential (\$14k, 3 years)



# Additional Maritime Investments

- Maritime High School (\$1,125,000, 5 year)
  - ✓ 134 students were enrolled, a 10% increase from prior school year
  - ✓ First graduating class (31 graduates)
- CorePlus Maritime (\$49,000, 1 year)
  - ✓ STCW curriculum development for high schools
- Sea Scouts (\$20K, 1 year)
  - ✓ Conducted two cruises aboard the Propeller with YMCL interns
  - ✓ SeaScout volunteers attended racial equity training



# Impact

<b>Youth Maritime Career Launch</b>	<b>2023</b>	<b>2024 (Two Cohorts)</b>	<b>2025 YTD</b>	<b>TOTAL</b>
Enrollments	40	33	30	100
Training Completions	25	28	30	83
Placements into Internships	18	24	23	65
Internship Sites	10	9	12	18
Hourly Wage at time of placement	\$19.14	\$21.09	\$21.09	\$20.60

# Impact

Youth Maritime Career Launch by Race and Gender (2023 - 2025)	Percentage of Enrollments
Black/African-American	69%
White	7%
Asian	5%
Latinx	12%
Two or more races	7%
Male	78%
Female	20%
Non-binary	2%





# Successes

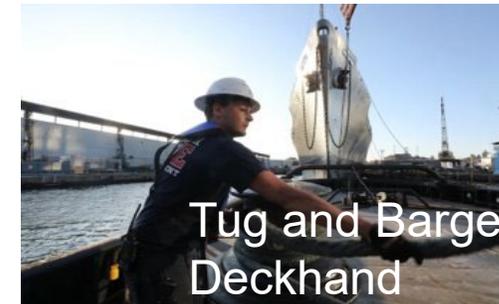
- More employer hosts in years 2 and 3 with better traction with **shoreside employers** and employers with **aligned missions**.
- Partnerships with community-based organizations helped **build trust and connect youth** to maritime opportunities.
- **Hands-on exposure** to maritime careers sparked genuine interest and helped youth see themselves in the industry.

# Challenges

- Hard to gain **buy-in from employers** due to internship parameters.
- Participants needed **more technical training upfront**; employers had limited capacity to train from the ground up or onboard interns without prior skills.
- Youth face **barriers to employment** – location of training and jobs, industry culture not always welcoming.
- **Contract deliverables** were aspirational.
- Difficult for non-profit community partners to **build relationships** in white, male-dominated private industry.

# Industry Challenges & Opportunities

- Jobseekers don't have sufficient experience or skills to meet employer needs
- Employers have limited capacity to act workforce issues
- Workforce is not representative of our diverse, near-port communities
- Jobseekers can't acquire sea time to qualify for entry roles
- Community members are unaware of maritime opportunities
- Aging workforce
- Technological advances
- Federal policy and investments



# Drivers of Success

**Goal:** Prepare and place near-port community members in maritime careers to meet employer demand



# Recommendations - Phase 1

Proposed strategies are informed by feedback from program participants, CBOs, employers, and regional maritime workforce leaders, as well as program data on employment outcomes.

- **Align Outreach with Education Partners**

- Connect recruitment efforts to Core Plus Maritime classrooms, Maritime High School, SKCF awardees and others who promote maritime career awareness

- **Increase Participant Preparedness**

- Replace internships with career services
  - Prepare participants with post-secondary education prior to hire

- Examples include:**

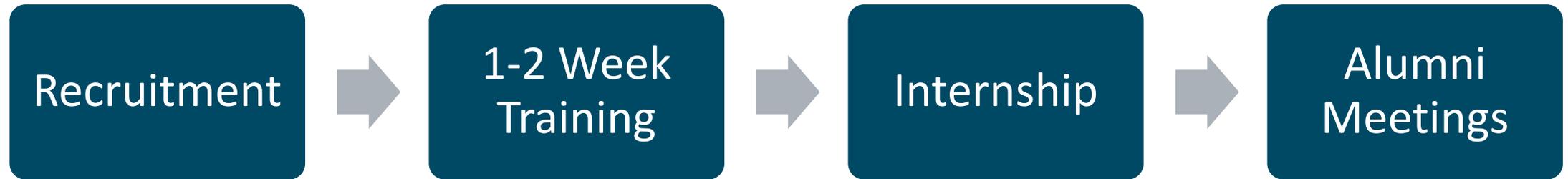
- Maritime Shipyard Programs
    - Pre-Apprenticeships
    - Additional trainings, certifications & qualifications (i.e., TWIC, MMC, SCTW, OSHA 10, sea time accumulation)

# Recommendations – Phase 1

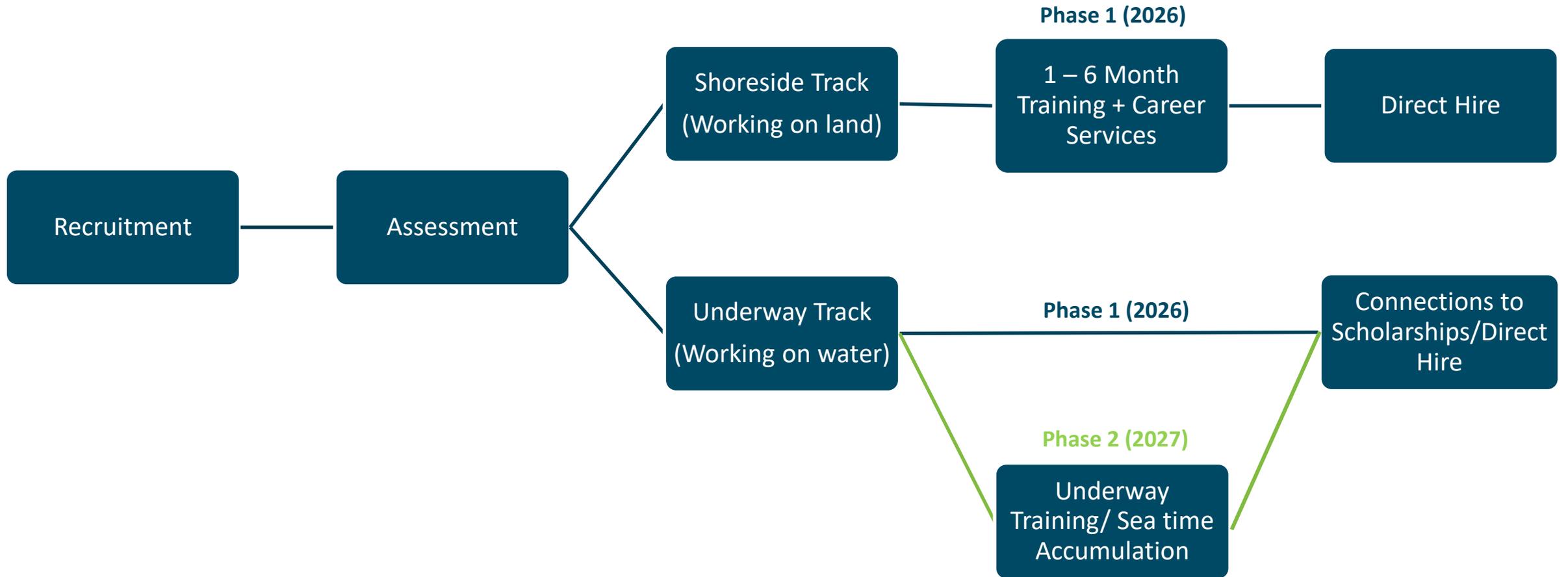
- **Organize services based on shoreside and underway career tracks**
  - Phase 1: Start with shoreside careers
  - Phase 2: to incorporate underway careers and other shoreside careers (e.g. logistics)
- **Expand beyond 18–24-year-olds**
  - Focus on near-Port communities, structurally excluded, Duwamish, Suquamish, Muckleshoot, re-entry population
- **Increase Employer Involvement**
  - Engage industry associations
  - Hire an industry liaison for job placements



# Current Model



# New Model



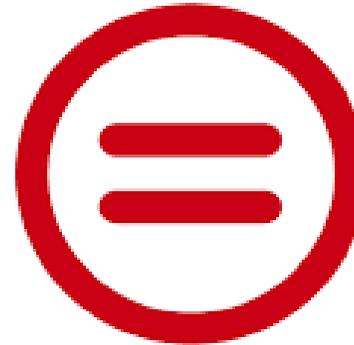
# Next Steps

- Continue to network with employers, community partners and industry leaders to inform linkages to career awareness, underway careers, Teal New Deal, etc.
- OEDI's goal is to release solicitation(s) as soon as possible and enter in contract in Q2 2026, with services provided in Q3 2026 through Q4 2028.

# Thank you to our YMCL partners!



**MITAGS**  
MARITIME INSTITUTE OF TECHNOLOGY  
AND GRADUATE STUDIES



Urban League of  
**Metropolitan Seattle**

**QUESTIONS?**





**COMMISSION  
AGENDA MEMORANDUM**

**Item No.** 11a

**BRIEFING ITEM**

**Date of Meeting** September 9, 2025

**DATE:** September 3, 2025  
**TO:** Stephen P. Metruck, Executive Director  
**FROM:** Karen Goon, Deputy Executive Director  
**SUBJECT:** **Cyberattack Response Briefing**

**EXECUTIVE SUMMARY**

Staff will provide Commission with an update on recovery efforts from the August 2024 cyber incident and to describe actions being taken because of lessons learned from the event.

**ATTACHMENTS TO THIS BRIEFING**

- (1) Presentation slides

**PREVIOUS COMMISSION ACTIONS OR BRIEFINGS**

N/A



# Port of Seattle Cyber Attack – Post Event One Year Review



# Overview of Cyber Attack Event



**Rhysida Ransomware used to attack the Port.**



## July to August 23

- Evidence of unauthorized activity was identified on an employee's laptop

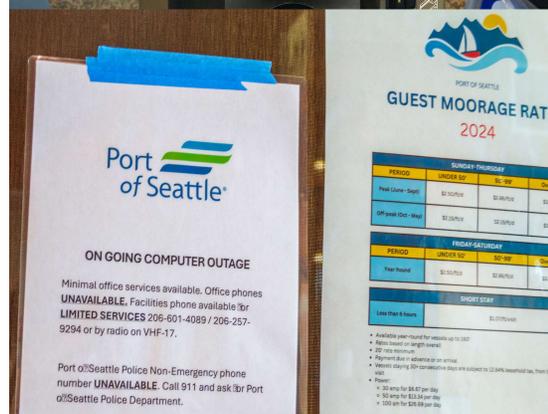


## August 24

- Data exfiltration
- System encryption
- Port of Seattle network lock down & isolation

# What Was Impacted

## Unavailable Services at SEA & Maritime Facilities



### Traveler-facing systems:

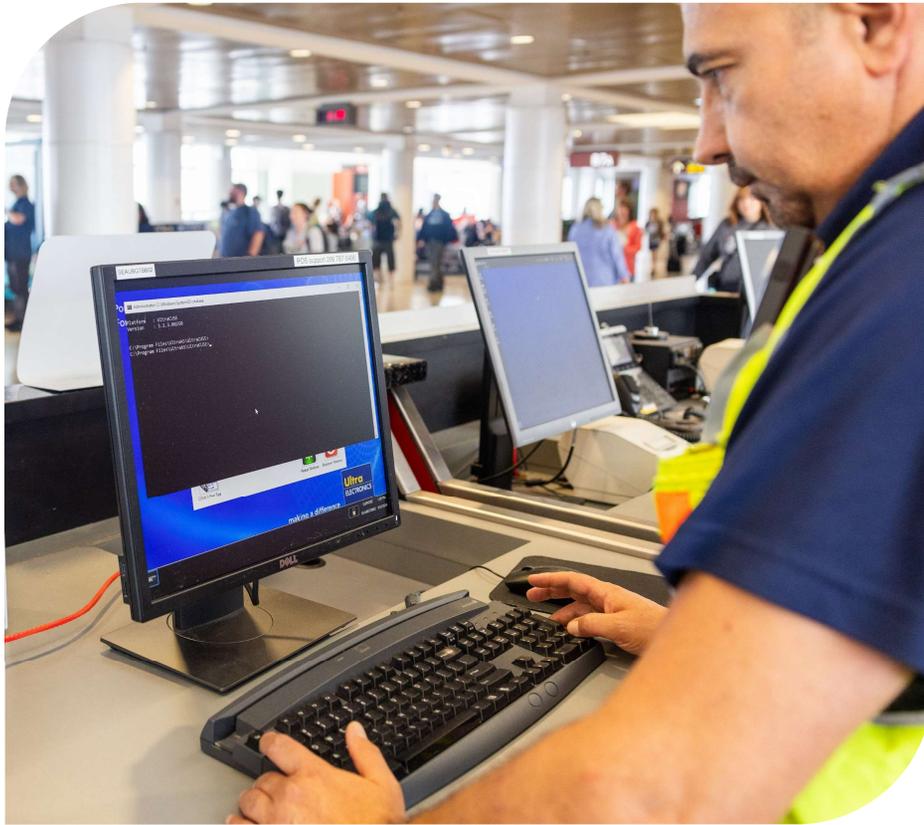
- Wi-Fi
- Phones (non-cell)
- FIDS and BIDS
- Website and mobile app
- Ground transportation systems
- Checkpoint wait times
- Common-use ticket counters
- ...and more

### Life Safety & Security

- Alarms
- Fire watch
- Some camera systems
- Door Fobs

# A Stronger More Resilient Port

# Recovery Improvements



- Strengthened Security Controls
- Enhanced Hardware & Software
- Automated Incident Detection & Response

# Organizational Continuity and Resiliency Program



**Technical Initiatives**



**Disruption Preparedness**



**Organizational Change**

# Organizational Continuity & Resiliency Program

This program is being developed to create a Port-wide “system” of standards, policies and practices around continuity and resilience preparation in the event of a disruption.



Establishing a robust risk management strategy



Developing clear incident response protocols



Developing, implementing, and testing comprehensive business continuity and resilience plans

# Sharing Experiences

9 Conferences-11 Industry Groups-9 Peers.



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# Questions?