

COMMISSION AGENDA

Item No: 3C

Meeting: 07/25/13

DATE: July 16, 2013

TO: Port Commission

FROM: John Wolfe, Chief Executive Officer

Sponsor: Jason Jordan, Director, Environmental Programs

Project Manager: Anita Fichthorn, Environmental Project Manager, Water Quality

SUBJECT: Enter into an Interlocal Agreement with the City of Tacoma for Mutual Cooperation & Support Regarding Agency Storm Water Management

A. ACTION REQUESTED

Request authorization to enter into an Interlocal Agreement (Agreement) with the City of Tacoma for the purpose of providing a cooperative framework for coordination of the Port and City's Phase I Municipal stormwater permits.

B. BACKGROUND

The Phase I Municipal Separate Storm Sewer System (MS4) Permit regulates the discharges owned and/or operated by the Port. The MS4 permit treats the Port like a city municipality and requires the Port to take a more regulatory role, and develop a Port-wide stormwater management program.

The Port was issued the MS4 Permit (Permit) in April 2007. The Permit covers all properties owned by the Port, and the associated stormwater discharges from these properties. In 2009, Port staff questioned payments of surface water fees to the City for Port-owned stormwater infrastructure that is not inter-connected to the City system and surface water fees being collected for Port-owned wetlands and habitat parcels. The Port requested surface water billing information from the City for Port-owned properties that receive utility charges for surface water. In response to this request, the City completed an assessment to evaluate surface water charges on Port-owned properties and determined that surface water rates for several properties were being undercharged, based on square footage and/or category of development under Tacoma Municipal Code 12.08.500. In order to correct this, the City sent a letter which notified the Port of this discrepancy and of the City's obligation to "back-bill" the Port for three years of uncollected charges.

The Port filed a protective appeal with the Hearings Examiner, describing the appeal issues as (1) objections to the City's billing calculations including but not limited to the City's three-year retroactive application of rates and reclassification/category of development, and (2) objection to the classification and category of development assigned to each Port parcel.

Since the date of the appeal, the Port and City have worked cooperatively and constructively to address and resolve the Port's questions and disputes. Both parties began work on formalizing this Agreement in 2011. In May 2012, a settlement was reached on billing issues and conceptually on permit compliance cooperation, as such, the appeal was withdrawn. As a result, rates were reduced on several wetland and habitat sites, and Port-owned properties that drain directly to Port waterways with an annual cost saving of approximately \$214,000. The Port and City continued negotiations to implement the conceptual Agreement, in which concurrence was reached in May 2013.

C. TERMS OF AGREEMENT

The Terms of this Agreement outline the roles and responsibilities of the Port and the City to meet these overall goals:

- Complying with our respective MS4 permits;
- Reducing pollutants in municipal discharges to the maximum extent practicable;
- Improved integration of our programs to ensure better water quality in Commencement Bay and its receiving waters and;
- Continued coordination to create efficiencies and cost savings with regard to stormwater management.

The basic terms of the Agreement include:

i. Port responsibilities

- Fulfill requirements, terms and conditions that are applicable to the Port's Permit;
- Grant access to City of Tacoma for mapping, spill response and inspections to infrastructure which discharge to the City's stormwater system;
- Implement internal review of development projects for stormwater compliance;
- Comply with City of Tacoma Surface Water Management Manual and Tacoma Municipal Code; and
- Upon request, compensate the City of Tacoma for certain stormwater-related services (see Exhibit A of the Agreement).

ii. City Responsibilities

- Fulfill requirements, terms and conditions that are applicable in the City's Permit;
- Provide courtesy stormwater engineering review in conjunction with other required project reviews for Port projects that discharge to Port-owned infrastructure;
- Implement the adopted Ordinance No. 13450 that added TMC 12.08.500 A.3 which has the effect of reducing surface water fees for Port properties/tax parcels

that do not flow through the City's municipal stormwater system but discharge directly through and from Port-owned properties/tax parcels to receiving waters;

- o Implement the adopted Ordinance No. 13450, which added TMC 12.08.500 A.2, which has the effect of reducing surface water fees for undeveloped Port-owned "open space" upland properties that are not planned for future development and can be demonstrated to provide a water quality benefit;
- o Grant access to Port of Tacoma staff for mapping, spill response and inspections to infrastructure which discharges to the Port's stormwater system; and
- o Upon request, provide consultation regarding applicable stormwater-related requirements for Port projects (see Exhibit A of the Agreement).

D. FINANCIAL SUMMARY

Estimated Cost of Project

Costs to the Port are only incurred when services are requested. Expenses would be authorized per the Master Policy on a project by project basis. Annual cost savings from the recalculated fees are approximately \$214,000.

Source of Funds

Funding for services associated with this Agreement would be tracked under MID No. 092658 MS4 Permit Program and MID NO. 091435 Environmental Compliance Program. The costs associated with those compliance projects will be expensed as incurred.

There are no additional funds allocated for this Agreement at this time.

Finance Impact

This Agreement does not increase Port expenditures. The 2013 Operating Budget includes an estimated expense of \$340,000 for surface water fees.

E. NEXT STEPS

The Port will continue to coordinate mapping of stormwater systems with the City of Tacoma Environmental Services; and continue to develop standard operating procedures for spill response activities. The Port and the City will also meet annually to discuss maintenance of City-owned drainage ways and conveyance structures located within the Port District; assess status of stormwater infrastructure; identify any improvement(s) that need to be made on inter-connected drainage; and address any future stormwater infrastructure issues.