

COMMISSION

Personal Services Contract Briefing

DATE: April 29, 2022
TO: Port of Tacoma Commission
FROM: Sarah Weeks, Environmental Project Manager
Michelle Walker, Contracts & Procurement Analyst

SUBJECT Notification for 071484- Parcel 2 Petroleum Cost Recovery (THIELE LAW FIRM PLLC) - Funding Increase.

Port Staff is notifying Port of Tacoma Commissioners of intent to increase funding for a Personal Services contract by more than fifty percent (50%) of the original contract amount by adding \$20,000.00.

A. MASTER POLICY REQUIREMENT

At the request of the Executive Director, this amendment will be issued in seven (7) business days from the date of this memo on **May 6, 2022**.

This memo serves to fulfill the requirements of the Master Policy in accordance with Resolution No. 2022-06-PT, Section IV.E-Personal Services Contract:

“(2) When an amendment to a contract, individually or cumulatively, which was approved by the Executive Director pursuant to Section (E)(1) herein above will exceed fifty percent (50%) of the original contract amount for the agreement and that amended cumulative amount remains less than \$300,000.00, the amendment must be filed with the Commission and made available for public inspection prior to the proposed starting date of services under the amendments. Substantial changes in contract scope or substantial additions to the scope specified in the formal solicitation documents shall be authorized by the Commission. The Commission shall determine whether the change warrants the work to be awarded as a new contract.”

B. SYNOPSIS

The Port is currently in the cleanup planning phase for the Alexander Avenue Petroleum Tank Facilities site (Port Parcel 2¹). The Port, Mariana Properties (a

¹ Port Parcel 2 is currently part of PSE's leasehold.

subsidiary of Occidental Chemical), and Washington State Department of Ecology (**Ecology**), entered an Agreed Order for cleanup planning in 2013. Cleanup planning requires legal support services with respect to matters of liability that arise under MTCA, RCRA, and/or CERCLA. On November 18, 2021, the Commission approved a total project authorization of \$2,348,000 for this project. A component of that authorization includes legal support. Legal support services include negotiation of agreed orders, consent decrees or other agreements needed to accomplish cleanup goals, and cost recovery efforts from other liable parties.

The most recent legal services contract, with Thiele Law Firm PLLC, was issued in November 2020 for \$9,000 and later amended to \$19,000. The current balance of the contract is \$4,176.00. The current contract amendment of \$20,000 will bring the total contract amount to \$39,000.

Contract Summary – Personal Services Agreement #071484	
Description	Amount
Original Contract Amount	\$10,000.00
Amendment 01 (Additional funding)	\$9,000.00
This Amendment 02 (Additional funding)	\$20,000.00
Total Not to Exceed Contract Amount	\$39,000.00

C. BACKGROUND

Legal support services for the Alexander Avenue Petroleum Tank Facilities site have been provided by Steven J. Thiele (formerly with Stoel Rives LLP, currently with Thiele Law Firm PLLC) under several sequential contracts since the project began roughly ten (10) years ago. To date, a total of \$114,363 has been billed in legal support services for the Alexander Avenue Petroleum Tank Facilities investigation and cost recovery efforts (MID 094217 and 101312.01).

The scope and budget of legal service necessary during the planning phase of cleanup projects are difficult to anticipate. Legal service contracts are typically managed incrementally as legal service needs arise. It is anticipated that contract amounts will increase by more than fifty percent (50%) as the project progresses.

Port staff are currently negotiating the draft Cleanup Action Plan with Ecology. Concurrently, the Washington State Attorney General's office is drafting the Consent Decree for cleanup implementation. Thiele Law Firm will continue to provide legal services during this phase of the project, which is anticipated to be complete by 4Q 2022.