Impact Statement

Legislation title: Settlement with the U.S. Environmental Protection Agency for Certain Portland Harbor Remedial Design Costs. Contact name: Annie Von Burg Contact phone: 503-823-7859 Presenters Names: Tracy Reeve and Tom Rinehart

PURPOSE OF PROPOSED LEGISLATION AND BACKGROUND INFORMATION

In December 2018, top EPA leadership visited Portland to announce an accelerated timeline for the next major phase of the Portland Harbor Superfund Site (Site). The EPA announced that it expects the entire 10-mile Site under order for remedy design by the end of 2019 or it will take enforcement action. To meet that deadline, EPA has asked that parties be in active negotiations for their sites by June of this year. The City is supportive of EPA's efforts to expedite this stage of the process.

Because the City has potential liability scattered throughout the 10-mile Site and has a broad interest in the cleanup moving forward quickly, we have partnered with the State of Oregon and developed a unique approach with EPA to address our legal obligation while protecting public dollars and encouraging site-wide action.

In this agreement with EPA, rather than enter into numerous agreements to perform remedial design, the City and State will combine funds and offer to pay \$80,000 dollars per acre at areas that have been assigned a cleanup in the Record of Decision, to parties that sign an agreement with EPA by EPA's deadlines. The City and State funds will be held in trust to fund the offer as specified in the agreement with EPA. This trust would be capped at \$24 million dollars with the City and State contributing equal shares.

This agreement increases the City's legal and financial certainty by providing a sum certain for remedial design in the areas where this offer is accepted, reduces the City's risk of enforcement action by EPA, reduces transaction costs that would be incurred during negotiating and performing numerous design agreements and encourages timely action by potentially responsible parties who have not yet stepped up to perform remedial design.

FINANCIAL AND BUDGETARY IMPACTS

Under this agreement with EPA, the City—alongside the State— will establish a trust and contribute a maximum total of \$12M over the next 3 fiscal years. The first transfer to the trust by the City in July of 2019 will be in the total amount of \$6M, the second transfer will be up to a total of \$3M in July 2020, and the final transfer up to a total of \$3M in July 2021. Actual amounts required to be transferred in FY2020-2021 and FY2021-2022 will depend on the amount needed to provide reimbursement to the parties who have accepted the funding offer. If all areas of the Site that could accept the offer do so, the maximum total funding from the City will be \$12M. Consistent with the Mayor's Proposed Budget released May 1, 2019, BES will use funds transferred into the Portland Harbor Superfund Reserve for the initial payment in FY2019-2020. These funds have already been collected via the Environmental Remediation Fund. BES will work with other Bureaus to identify funding for the two subsequent payments.

This incremental settlement with EPA allows the City to avoid significant additional resources that would be necessary to address this phase of the project, including additional staff, technical and legal support.

COMMUNITY IMPACTS AND COMMUNITY INVOLVEMENT

The Portland Harbor Team recently launched a Portland Harbor Community Involvement Program. Over the last year the City has engaged more than 30 organizations and 450 individuals as part of its outreach efforts to collect input specifically from those that have been, and will be, most impacted by cleanup efforts.

One of the priority initiatives of that program is to work with community groups to increase community benefits as a result of the work that will be done at Portland Harbor. Because the bulk of opportunities for community benefits will be realized in the next major phase of the project, the Remedy Action phase, the sooner we get to that phase of the project the sooner we can leverage those benefits. This agreement with EPA helps moves us to the remedy action phase sooner.

One specific area of this agreement that we have identified as potentially providing additional community benefit is the interest earnings from the trust. The City is committed to use our portion of the interest earned for community involvement related activities.

Budgetary Impact Worksheet

Does this action change appropriations?

	YES
X	NO

Please complete the information below. You can skip this section

Fund	Fund Center	Commitment Item	Functional Area	Funded Program	Grant	Sponsored Program	Amount