



PORT OF OLYMPIA COMMISSION
MINUTES OF WORK SESSION

December 22, 2008

CALL TO ORDER

President McGregor called the work session of December 22, 2008, to order at 1:30 p.m. at the Port Offices. Commissioners Barner and Telford were also in attendance.

Staff in attendance were: Executive Director Ed Galligan (via telephone conference call), Administrative Manager Jeri Sevier, Engineering Director Jeff Lincoln, Airport Director Rudy Rudolph, Project Manager Rick Anderson, Contracts Coordinator Linda Shilley, Property Manager Clarita Mattox, Property and Business Development Manager Mike Reid, and Environmental Program Manager Joanne Snarski.

Public in attendance were as follows: Keith Bausch, John Newman, Jason Hite, Gayle Fleming, Lisa Riener, and Arthur West.

Authorization to Award Bid for Interim Action Berth 2 & 3 Dredge Project

Mr. Jeff Lincoln indicated that the berth maintenance dredging for the West Bay berths was started in 1999 when the Port and Corps tested sediments to standards set by the Dredge Material Management Office. One of the first steps in the process is to test the sediments pursuant to the Dredge Material Management Office program led by the Corps, the Environmental Protection Agency, the Department of Natural Resources and the Department of Ecology. The purpose of this testing is to ensure that there are no unacceptable levels of contaminants transported to the open water disposal site.

He indicated that the sediment was approved for open water disposal in 2000, however the dredging was deferred until it became essential to conduct maintenance dredging based on accretion of sediments adjacent to the berths in 2005. At that time the Dredge Material Management Office required additional testing for dioxin.

Mr. Lincoln reported that in early 2006 the results of the sampling for dioxin resulted in the determination that the sediment was unsuitable for open water disposal. The project was postponed until the extent of the contamination was better defined. In 2007 and 2008 the Port and the Department of Ecology (DOE) conducted extensive testing and research on the site resulting in the Port entering into negotiations for a Model Toxics Control Act (MTCA) Toxics Cleanup of the berth area.

Mr. Lincoln noted that the Port and Ecology developed the design of the Interim Action (IA) and developed a plan for the dredging in 2008. The Port applied for the necessary Corps of Engineers Permits in the fall of 2008, and requested authorization to call for bids for the construction on October 27, 2008. The pre-bid meeting was held on November 10th.

He reported that the Port entered into an Agreed Order with DOE for the Berth Dredge Cleanup on October 1, 2008. The Department of Ecology issued their final Agreed Order on December 5, 2008. This final order was forwarded to the Army Corps of Engineers for consideration of the necessary permits for the dredging and cleanup activity. This Interim Action is considered a pilot project by the Port and Ecology and information gained on sloughing of the under pier slopes will be utilized in future, more comprehensive cleanup actions in and around the berth area.

Mr. Lincoln noted that at the time of bidding, the engineer's estimate for this project was \$2.5 million to \$3.0-million. Advertisements were placed in the Olympian and the Daily Journal of Commerce notifying potential bidders of the planned project. Six Addenda were issued to address several questions and concerns raised at the pre-bid meeting by the potential bidders. The bid date originally scheduled for December 5th was changed to December 16th to allow completion of permitting.

On December 15th the Corps issued verbal notification that a Nationwide 38 permit, conditioned by the Corps to insure protection of the environment, would be issued within several days. On this assurance the Port opened bids at 10:00 AM on Tuesday, December 16, 2008.

Mr. Lincoln indicated that this Interim Action consists of dredging of approximately 9,700 cubic yards of sediment within Berths 2 and 3 of the Port's Marine Terminal. The dredged sediments exceed the screening level guidance for dioxin/furan for disposal at the nearest Dredged Material Management Program (DMMP) unconfined open-water disposal site and therefore requires removal, transport, and upland disposal. After dredging is completed, a minimum six-inch layer of clean sand is required by the agencies; therefore, an additive bid item was established to place a clean sand cover in the berth area in front of the pier to ensure that the berth area will have improved surface sediment quality.

Mr. Lincoln indicated that the Port's schedule is to complete construction by the end of the 2008-2009 in-water construction window, which ends on March 14, 2009.

Mr. Lincoln noted that a public opening of all Bid Proposals was held on December 16th at 10:00 am. A summary of bids received is as follows:

Contractor	Lump Sum Bid	WSST @ 8.4%	Total Bid
Pacific Pile & Marine, LP	\$1,739,800.00	\$146,143.20	\$1,885,943.20
Granite NW, dba Wilder Construction Company	\$2,021,800.00	\$169,831.20	\$2,191,631.20
American Construction Co., Inc.	\$2,059,200.00	\$172,972.80	\$2,232,172.80
Manson Construction Company	\$2,939,000.00	\$246,876.00	\$3,185,876.00

The Director of Engineering has reviewed the lowest responsive/responsible bid and has determined that it conforms to applicable laws and directives.

Commissioner Telford noted that a couple of emails and letters were sent in to the Commissioners in opposition to the approval of this contract. Commissioner Telford indicated that he would like to clarify the record and provide factual answers.

Commissioner Telford noted that in a letter from Stanley Stahl, Mr. Stahl indicated that this is only being done to avoid the back-door-no-penalty default clause in the Weyerhaeuser lease. Mr. Stahl also noted that per section 16.3 of the lease it states that if a satisfactory agreement regarding work to achieve the 38 ft. depth at mean low tide is not achieved by 12/31/07, neither party is required to pay anything to the other. Mr. Stahl indicated that the deadline was extended to 12/31/08.

Staff confirmed that the leases says:

“16.3. Berth Maintenance and Dredging. If the planned dredging does not commence by December 31, 2008, and if Tenant can document that the lack of water depth has prevented Tenants customers vessels of the size and draft calling at Tenants operation at the execution of this Lease from docking at the Port, then Tenant and Port agree to cooperate with one another in good faith to explore reconfiguration of the Tenants site and a shift to the use of other Port berths. If the Port and Tenant are not able to identify a mutually agreeable solution, then Tenant may terminate this lease, and neither party shall be required to make any payment to the other under paragraph 4 or Paragraph 47 of this Lease based on such termination.”

Mr. Lincoln indicated that berth 2 at the port currently meets the requirements of the lease in that ships calling at the time of the execution of the lease can be fully loaded at berth 2. This has been further enhanced by the installation of the camels. The Port already meets the requirements of the Weyerhaeuser lease without dredging. This dredging will facilitate calls by larger ships and adequate berth depths at very low tide events by any user of the Port's marine terminal.

Commissioner Telford indicated that Mr. Stanley indicated that none of the prep work being done by the Port for Weyerhaeuser was to be done with bonding proceeds, but rather with general funds in the Port's treasury and the Port is using public tax dollars to pay back this illegal use of bonded funding.

The Commissioners indicated that to date all expenses relating to Weyerhaeuser has been covered with Port reserves, not bond proceeds. The dredging will accomplish a portion of maintenance

dredging planned for five years before Weyerhaeuser began discussions with the Port. This project has been clearly identified in the Capital Investment Plan using bond funds.

The Commissioners indicated that Department of Ecology has indicated that matching grant funds are available. The Port has all permits necessary to accomplish this work, the final permit being issued by the Corps of Engineers on December 22, 2008. There is no reason known to the Commission as to why this project is not fully legal to award, construct and complete. Again, the Port expects this project to cost less than \$3-million of which the Port expects DOE to provide 50% of the costs in grant funds from MTCA funding.

Commissioner Telford move to authorize the Executive Director or the Commission President to Award Public Works Contract No. 2008-0011 to Pacific Pile & Marine, L.P., in the amount of \$1,739,800.00, plus Washington state sales tax for the Berths 2 and 3 Interim Action Dredging, Project No. MT0601. Commissioner Barner seconded the motion.

Public Comment:

Mr. Keith Bausch indicated he was very supportive of this action. He indicated they have been waiting for 9 years and it is time to get this done. He noted that there would be a Weyerhaeuser ship here at the end of the month.

Mr. John Newman indicated that the Port does not have the necessary permits to legally approve this contract. He also asked what if Ecology does not approve the plan? He asked where the water goes and if it goes back into the stormwater and into the bay?

Mr. Arthur West indicated that he is concerned that this project is being rushed through by calling a special meeting to award this contract. He noted that proper notice was not given for this meeting and he asked where the permit was.

Ms. Lisa Reiner indicated that she was concerned that there was not enough public notice given for this meeting and we are rushing through the dredging. She indicated that the dioxin will hurt Puget Sound and the dewatering activities might hurt the water quality of Budd Inlet.

Commissioner Telford responded that we do not have a shoreline permit and it is not required because we have a Nationwide 38 permit and under the agreed order with Ecology we meet the substantive requirements. He noted that the dewatering process will be approved by Ecology and extensively coordinated between Ecology and the Port.

He reported that we called this special meeting because the dredging window closes on March 14 until the middle of July. The contractor needs time to mobilize and expects to start the project January 15 and complete it by February 21.

Staff indicated that proper meeting notice was given. The meeting notice was sent out on December 17, 2008, sent via email, and US mail, and posted to the website. There was at least four days notice; only 24-hour notice is required.

Commissioner Barner responded that we are not rushing this project. He indicated that we have been working with Ecology for months, in fact the Department of Ecology held a public meeting in October and public comment period was open for 30 days on the agreed order. He noted that we have been working with agencies to clean up Puget Sound, this is a pilot project, and we need to dredge to be viable for any and all ships to visit the Port.

Commissioner McGregor noted that the Department of Ecology has provided many opportunities for the public to be involved in this process throughout. In addition, staff has provided many updates to the Commissioners at public Commission meetings over the past years and recent months.

Commissioner Barner requested that staff prepare responses to the emails that were sent.

The motion passed unanimously to authorize the Executive Director or the Commission President to Award Public Works Contract No. 2008-0011 to Pacific Pile & Marine, L.P., in the amount of \$1,739,800.00, plus Washington state sales tax for the Berths 2 and 3 Interim Action Dredging, Project No. MT0601.

Notification of An Emergency Public Works Contract for Airport Snow Removal

Mr. Lincoln indicated that pursuant to RCW 53.08, Port staff is required to record with the Commission, notification that it has awarded an emergency public works contract at the first

Commission meeting following finding of an emergency. Due to inclement weather, it was determined by Port staff that emergency snow removal and road sanding was required on Airport properties. A contract was awarded to G. A. Jorgensen Company to perform snow removal and road sanding, for an estimated amount not to exceed \$25,000.

The Port Commission needs no action; the notification is all that is required.

ADJOURNMENT

President McGregor adjourned the meeting of December 22, 2008 at 2:17 p.m.

PORT OF OLYMPIA COMMISSION

President

Vice President

Secretary-Treasurer