

MINUTES OF EVERETT PORT COMMISSION WORK SESSION
June 5, 2012

PRESENT: Troy McClelland President
Michael Hoffmann Vice President
Tom Stiger Secretary
John Mohr Executive Director
Brad Cattle Port Attorney

Chief Finance Officer Karen Clements was absent due to out-of-town travel.

CALL TO ORDER: Commissioner Troy McClelland called the meeting to order at 5:01 p.m.

CONSENT AGENDA FOR MAY 1, 2012

- Terminal Pavement Upgrades – Authorization to Bid
- Ameron Hulbert Environmental Cleanup – Authorization to Perform Peer Review

Commissioner Michael Hoffmann moved to approve the items of the Consent Agenda for June 5, 2012. Commissioner Tom Stiger seconded the motion. A vote was called for:

Vote: 3-0
Yes: Hoffmann, Stiger, McClelland
No: None
Abstained: None

Motion carried.

1. EXECUTIVE DIRECTOR'S REPORT

Industrial Development Corporation Annual Meeting

Executive Director John Mohr announced that the Industrial Development Corporation (IDC) of the Port of Everett will hold its annual meeting on Tuesday, June 12, 2012 at 4:50 p.m. in the Blue Heron Conference Room.

Marina District Master Plan

John Mohr reported that in order to meet some scheduling issues, Staff is modifying the agenda and moving the Marina District Master Plan agenda item up under the Executive Director's report for the June 12, 2012 meeting.

July Commission Meetings

Typically the Commission has given consideration to holding a single meeting in July as opposed to having two meetings, given the proximity of the first regularly scheduled meeting to the July 4th holiday. John Mohr asked the Commission if they wanted to hold a single meeting on July 10, or if the Commission preferred a two meeting format.

Commissioner McClelland indicated that he had seen some of the agenda items for July, and it appears that the Port can accomplish the items with a single meeting on July 10, 2012.

The Commission concurred.

Corps of Engineers – Bid for Dredging

John Mohr reported that the Corps of Engineers has a substantial amount of dredging planned for the Snohomish River Channel this year.

Currently, the Corps of Engineers is out for a 30-day bid period for the Snohomish River Channel that closes on June 12. The project includes both the upper and lower settling basins, which will be hydraulically dredged for maximum efficiency. Normally, just one settling basin is dredged in a given year. It is expected that the upper settling basin will have approximately 100,000 yards dredged for placement on the City of Everett's parcel O property located on the river near 36th Street. The lower settling basin will also be dredged and it is

expected that about 80,000 cubic yards of dredged material will be removed and placed on Jetty Island for beneficial environmental use. Dredged sediments placed on Jetty Island will help re-nourish the habitat berm which supports and protects a thriving tidal saltwater marsh. Additional material will be placed on the south tip of the island with the goal of creating new beach habitat.

Armed with additional budget this year, the Corps is planning to solicit a separate clamshell dredging project that will dredge up to 200,000 cubic yards of material from the Snohomish River Navigation Channel. The additional dredging will take place in the sections of the Navigation Channel between the two settling basins and south of the lower settling basin. Due to capacity limitations on Jetty Island and the proximity of where this additional work will take place, this material will be disposed of at the Port Gardner deepwater disposal site. Being a local sponsor for the Corps dredge material disposal, the Port will incur a 45 cent per cubic yard cost from the Department of Natural Resources for use of the disposal site. The expense is accounted for in the Port's 2012 budget. The Corps of Engineers hopes to begin this work in mid-October.

2. DEPARTMENT REPORTS

Properties

Ocean Research College Academy (ORCA) Tenant Improvements – Contract Closeout

Chief of Engineering & Planning John Klekotka reported that in mid-2011, the Port Commission approved a lease for 5,725 square feet on the mezzanine level of the Waterfront Center for the ORCA program, and approved a construction contract for tenant improvements with Allied Construction. The tenant improvement contract was set up with separate bid schedules for the classroom area and lab area, with the lab area improvements being covered under a National Science Foundation grant issued to Everett Community College, for which the Port acted as a grant sub-recipient. Construction began in September 2011, and was substantially complete in late December, in time for ORCA's winter quarter starting in January 2012. Punchlist work and other paperwork were completed in May, and Staff now seeks final Commission acceptance for the project.

Staff requests that the Commission accept the ORCA Tenant Improvements as complete and authorize Staff to close out the contract with Allied Construction Associates, Inc. in the final total amount of \$598,250.64.

Commissioner Michael Hoffmann moved to accept the ORCA Tenant Improvements as complete and authorized Staff to close out the contract with Allied Construction Associates, Inc. in the final amount of \$598,250.64, including Washington State Sales Tax (WSST). Commissioner Tom Stiger seconded the motion. A vote was called for:

Vote: 3-0

Yes: Hoffmann, Stiger, McClelland

No: None

Abstained: None

Motion carried.

Projects Update

Everett Shipyard Site, Building Demolition Contract Award

Chief of Engineering & Planning John Klekotka said he previously presented the bid results for the Everett Shipyard Site, Building Demolition project at last month's meeting but there were a few issues that needed to be addressed before the Commission would be able to award this contract.

The budget for this project is in the amount of \$850,000. The engineer's estimate including the additives was \$1.2 million. The base bid is for the Everett Shipyard buildings, Everett Engineering buildings and the fish processing and cold storage building which was estimated at just under \$900,000. There was also an additive

bid for the Mall building and the old Scuttlebutt building estimated to be \$360,000.

For the project, the work will start with abatement of the regulated building materials which are primarily asbestos and lead, followed by demolition and recycling of the various building materials, and demolition of all of the floor slabs. The concrete will be stockpiled on site for future beneficial reuse as fill for a future redevelopment effort.

The Port received 11 bids at the end of April for the project. The range for the base bid only was \$300,000 up to \$800,000. The base bid plus the additives ranged from \$447,000 to \$1.1 million. The low bidder for the base bid plus the additives was from SkyCorp, LTD in the amount of \$447,083.36. Should the Commission authorize the award, work on the demolition would occur from July to September, and then close out the contract in October. Right on the heels of this project, the upland cleanup would begin and go through 2014.

The Port received a formal bid protest from Rhine Demolition. Port attorney Brad Cattle said the Rhine Demolition bid protest was timely filed with the Port. The basis for the bid protest was 1) that the apparent low bidder SkyCorp failed to identify its electrical subcontractor pursuant to RCW 39.30.060, and 2) that SkyCorp lacked the experience necessary to properly perform the work.

RCW 39.30.060 requires a contractor on a public contract job to identify certain subcontractors such as an electrical contractor where the contract is expected to cost \$1 million or more. In this particular case, the Port's anticipated expenditure was \$850,000. If the bids and additives had come in greater than \$850,000, then only the base bid would have been awarded because the budget for the project was \$850,000. John Mohr reported that the budgetary authority that the Port had to perform the project was \$850,000, and had it exceeded the \$850,000, the Port would have awarded the base bid and whatever alternative that was determined to be the most important so that the total did not exceed \$850,000.

Brad Cattle stated that when the Port published its expected value of this project, it published that the estimated cost was \$850,000 to \$1,000,000. The statute says "is expected to cost \$1 million or more," so essentially the project is consistent with the statute. Also, in reviewing the bid submittals, all of the bidders except for one were well below the \$1 million threshold, so everyone else's expectation in the bid realm was that this project is well below the \$1 million threshold of RCW 39.30.060. It is Port staff's recommendation that there is no basis under RCW 39.30.060 for Skycorp to have been required to list its electrical contractor, and Port staff does not believe that there is a basis for the Commission to reject their bid on that basis.

Commissioner Hoffmann commented if the project is deemed as being both the base bid and the additive bid, then the engineer's estimate does exceed \$1 million. Brad Cattle stated that the engineer's estimate for the base bid is below \$1 million, and the funding for the project is below \$1 million, and so the Port knew going into this that it was going to expend less than \$1 million. When the bids came in as favorably as they did, the Port realized it would spend less than \$1 million. The Port is going to buy more than the base bid, but the Port knew at the outset it was going to spend less than \$1 million.

Commissioner McClelland said that the budgetary record is public, and the CIP is a public record, and so the cost showed \$850,000 which suggests the consistency with the statute.

John Mohr stated that the base bid would be \$850,000 or less. Port staff added the two additives subsequent to the plan because it was thought that there would be benefit to the Port to not pay for a second mobilization/demobilization; and by increasing the scope of the project, it was the Port's hope that it would get a lower cost on the base bid that would allow the Port to do the two additives.

Commissioner Stiger asked if there was a normal practice or procedure when there is a contract of this size to list the subcontractors in the bid document. John Klekotka said that the form was included in the bid documents. John Mohr stated that the bidder had marked that particular form as not applicable. Commissioner Stiger asked if the bidder had the right to mark it as not applicable. John Mohr responded yes because it did not exceed the \$1 million threshold.

John Klekotka reported that the bid protestor Rhine Demolition also questioned the low bidder Skycorp's qualifications. In the protest letter they reference that Skycorp's work experience was very small in nature and did not sufficiently demonstrate the competency required to successfully complete a project of this magnitude. Port staff did contact the references of the previous project experience that was listed in the bid which was all related to smaller wood frame structures. Staff requested additional qualification information from Skycorp and followed this up with a bid evaluation meeting which is allowed under the instructions to bidders of the contract document. During the bid evaluation with key personnel from Skycorp, Port staff felt comfortable that the individuals working for Skycorp did have the experience to perform the project. Skycorp itself was formed in 2011 so it is a new company, but the individuals that work for the company do have over 30 years combined demolition experience. Accordingly, Staff believes Skycorp to be qualified.

Commissioner Stiger asked where they were located. John Klekotka reported they were located in Arlington, and added that Staff believes Skycorp was very thoughtful about the project and had been deliberate in putting their bid together, and that there was nothing that led staff to believe that they wouldn't be able to carry out the contract.

In response to Commissioner McClelland, John Klekotka said the demolition permits have already been received. The air pollution prevention permits with Puget Sound Clean Air Agency have to be applied for by the regulated building material contractor and they cannot do that until the project is awarded, and then there is a 10 day waiting period at which time the work can begin. The contractor can move to the next phase as soon as the regulated building materials have been abated. Argus Pacific, the regulated building materials consultant for the project, will be on site to make sure that work is done properly.

In addition, John Klekotka clarified that the budgeted amount for this project is for the demolition of structures necessary for the Everett Shipyard cleanup. The former Scuttlebutt and former Marine Mall buildings were not included in this budget. This budget was included in the Port's 2012 cash flow budget for environmental cleanups, but was not included as a capital cost under the Properties budget. This will mean an unexpected accounting expense for the Properties 2012 budget. Although the two additive items are not explicitly required by Ecology for the cleanup, Staff recommends their award for the following reasons: 1) demolition of Scuttlebutt and the Marine Mall buildings are advantageously priced by the low bidder at \$145,565.78, including WSST; 2) the two buildings will eventually need to be demolished for construction of the future Gateway District; 3) work performed at this time will mean a savings in future mobilization expense; and 4) the total cost, including the additives, is within the available 2012 cash flow funding.

Upon further discussion, Commissioner Michael Hoffmann moved to deny the bid protest from Rhine Demolition. Commissioner Stiger seconded the motion.

A vote was called for:

Vote:	3-0
Yes:	Hoffmann, Stiger, McClelland
No:	None
Abstained:	None

Motion carried.

Commissioner Michael Hoffmann moved to award the Everett Shipyard Site Building Demolition contract to Skycorp, LTD for the Base Bid plus Bid Additives in the total amount of \$447,083.36, including WSST. Commissioner Stiger seconded the motion. A vote was called for:

Vote: 3-0

Yes: Hoffmann, Stiger, McClelland

No: None

Abstained: None

Motion carried.

Commission President's Report

Commissioner Troy McClelland reported that the Puget Sound Regional Council will be presenting the draft Regional Economic Five-Year Plan tomorrow to the Executive Development District Board and thanked the staff for their involvement in specifically working on the marine and the Port portions because the document is significantly improved based on the Port of Everett's engagement on those two fronts. The Economic Development five year strategy is wrapping up and the Port of Everett played an important role in its development.

Commission Discussion

There was no further Commission discussion.

Citizen Comments

There were no Citizen comments.

No Executive Session was held.

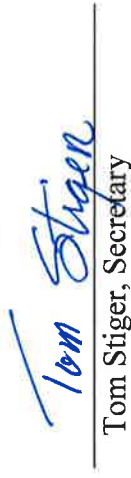
THE WORK SESSION WAS ADJOURNED at 5:53 p.m.

APPROVED this 10th day of July, 2012. EVERETT PORT COMMISSION

By: _____
Troy McClelland, President



Michael Hoffmann, Vice President



Tom Stiger, Secretary