



AGENDA
Regular Commission Meeting
Port of Portland Headquarters
7200 N.E. Airport Way, 8th Floor
August 11, 2010
9:30 a.m.

Minutes

Approval of Minutes: Regular Commission Meeting – July 14, 2010

Executive Director

Approval of Executive Director's Report – July 2010

Award Presentation

MID Second Year SHARP Certification presentation from Oregon OSHA

General Discussion

HQP2 Project Completion Report

*KARL SCHULZ
STEVE SCHREIBER*

West Hayden Island Update

SUSIE LAHSENE

Consent Item

1. CONSENT TO ENTERPRISE ZONE EXPANSION APPLICATION BY THE CITY OF HILLSBORO

LISE GLANCY

Requests consent to an Enterprise Zone expansion application by the City of Hillsboro, located within Port of Portland boundaries.

Action Item

2. CONSTRUCTION CONTRACTS – SOUTH RIVERGATE YARD EXPANSION – RIVERGATE INDUSTRIAL DISTRICT

ROBIN MCCAFFREY

Requests approval of related construction contracts for the South Rivergate Yard Expansion project in the Rivergate Industrial District.

CONSENT TO ENTERPRISE ZONE EXPANSION APPLICATION BY THE CITY OF HILLSBORO

August 11, 2010

Presented by: Lise Glancy
Manager
Regional Government Relations**EXECUTIVE SUMMARY**

This agenda item requests consent to an Enterprise Zone expansion application by the City of Hillsboro, located within Port of Portland (Port) boundaries, to provide an additional incentive to encourage existing or new companies to invest and add employees within the zone.

BACKGROUND

In the 2005 legislative session, the statute for the Enterprise Zone program was changed to require the governing bodies of a port district to consent by resolution to Enterprise Zone applications by a city or county within the boundaries of the port. This change was requested to ensure coordination of economic development activities within port districts. Oregon ports play a key role in economic development in the community. The legislature also provided for the designation of 10 new Enterprise Zones statewide by the Oregon Business Development Department. Since the statute changed in 2005, the Port Commission routinely receives requests from jurisdictions as they move forward with Enterprise Zone applications and/or boundary changes.

The City of Hillsboro is seeking the Port's support and consent in favor of expanding their Enterprise Zone to include an additional 2.4 square miles. The geographic boundaries are the areas north of the freeway between Jacobsen Road, Sunset Highway, and east of Cornelius Pass Road; south of the freeway to include areas east of NW 235th along Evergreen Road, areas north of NW Cornell Road and east of 229th and the Tanasbourne area adjacent to the freeway west of SW 185th. A map of the existing and proposed boundaries is attached.

Since the Hillsboro Enterprise Zone was established in 2006, 13 Enterprise Zone projects were approved, providing significant economic and workforce impacts. A minimum of 500 employees have been retained and over 1,300 jobs are anticipated to be created within the zone since the program's inception. Many of the enterprise zone companies are major employers such as SolarWorld, TriQuint Semiconductor, and Genentech that use freight and passenger services from Portland International Airport as well as services through Hillsboro Airport on a regular basis.

Currently, the trend among new prospects has been to focus on existing buildings that meet their immediate needs. The proposed Enterprise Zone boundary expansion encompasses many vacant buildings in the area and will provide Hillsboro with a strong economic development tool to encourage existing and new companies to invest in Hillsboro's industrial areas.

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The primary beneficiaries of Enterprise Zone benefits are manufacturing and other more industrially-oriented facilities serving other businesses. Most commercial and retail-type operations are ineligible.

Enterprise Zones provide up to 100 percent property tax abatement on a company's new investment in facilities, equipment and machinery over a three- to five-year period. Land or existing machinery or equipment are not tax exempt; therefore, there is no reduction of current property tax levies to the Port. Under the current tax code and inclusive of the zone expansion, the Port will forgo approximately \$0.0701 per \$1,000 of assessed value until the exemption period ends (estimated at \$3,780 annually, assuming investments in the Enterprise Zone of \$54 million a year). Staff expects the impact on Port property tax revenue to be relatively small. Upon completion of the three- to five-year exemption period, the property is fully taxed.

In order to move the Hillsboro Enterprise Zone expansion application forward to the Oregon Business Development Department for approval, Hillsboro is required to have the consent of the Port Commission for this application. Hillsboro has requested that the Port provide a resolution consenting to this Enterprise Zone boundary expansion.

EXECUTIVE DIRECTOR'S RECOMMENDATION

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, that the Port of Portland Commission consents to an application by the City of Hillsboro for the expansion of the Hillsboro Enterprise Zone located within Port of Portland district boundaries.

CONSTRUCTION CONTRACTS – SOUTH RIVERGATE YARD EXPANSION – RIVERGATE INDUSTRIAL DISTRICT

August 11, 2010

Presented by: Robin McCaffrey
Engineering Project Manager**EXECUTIVE SUMMARY**

This agenda item requests approval for two related construction contracts for the South Rivergate Yard Expansion project (Project) in the Rivergate Industrial District (Rivergate). First, staff will request approval to award a construction contract to Colf Construction Company for the majority of the Project. Second, staff will request approval to award a construction contract to Union Pacific Railroad Company (UPRR) for a smaller portion of the Project that impacts active track and yard lighting. In addition, staff will request a waiver of the performance and payment bonding requirements for the construction contract with UPRR.

BACKGROUND

The Project will construct approximately 18,000 feet of additional track in the rail yard adjacent to Evraz Oregon Steel, Columbia Grain, Portland Bulk Terminals and other businesses in South Rivergate. The Project will also remove and/or install new switches in South Rivergate Yard and in Bonneville Yard, which feeds South Rivergate Yard from the south. The switch improvements and additional tracks will improve overall yard operation in Rivergate and in the proximate rail network, as well as allow for additional switch service to Columbia Grain.

In December 2009, the Commission approved the terms of a master agreement between the Port of Portland (Port), UPRR and BNSF Railway Company (BNSF) that sets forth the parties' respective responsibilities for construction, operation and maintenance of the Project. Pursuant to that agreement and pending successful closure of the agreement's due diligence period on September 17, 2010, the Port will construct the Project. The Project's assets (land and track) will transfer to UPRR and BNSF to operate and maintain. The master agreement also requires the railroads to compensate the Port for a portion of project costs over a period of 10 years.

The overall project budget is \$12,509,200, including the value of Port property to be used for the Project. As described in December 2009, project funding comes from a combination of ConnectOregon II grant and loan funds and Railroad funds.

Construction Contract for Port Work

Most of the South Rivergate Yard Expansion will be built by Colf Construction Company on property jointly owned by UPRR and BNSF, with some work performed within the closed right-of-way of North Ramsey Boulevard (collectively, the Port Work).

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The Port Work primarily includes construction of track, turnouts, track access roads, crossing panels, an electrical distribution system, a yard air building, a compressed air system, retaining walls and fencing. Although the Project's master agreement requires Commission action on construction contracts in August 2010, the Port expects construction of the Port Work to start in November 2010, subsequent to certain utility relocation work. Substantial completion, the point at which the track can serve rail traffic, is expected in July 2011.

As the ultimate owners of the South Rivergate Yard Expansion, UPRR and BNSF have worked closely with Port staff to develop the Project's design and specifications. The construction contract for the Port Work requires Colf Construction Company to coordinate its overall project schedule with the Port and the South Rivergate Yard operator, UPRR.

Bids for the construction contract were received on July 22, 2010, as follows:

Colf Construction Company	\$ 4,337,335.00
Rotschey, Inc.	\$ 4,376,961.80
RailWorks Tracks Systems, Inc.	\$ 4,387,778.00
Kerr Contractors, Inc.	\$ 4,394,537.00
Tapani Underground, Inc.	\$ 4,487,379.00
Tri-State Construction, Inc.	\$ 4,548,880.00
Nutter Corporation	\$ 4,563,432.22
R&R General Contractors, Inc.	\$ 4,698,086.00
Westech Construction, Inc.	\$ 4,798,971.00
Coffman Excavation	\$ 4,841,303.50
Goodfellow Bros., Inc.	\$ 5,220,919.00
Engineer's Estimate	\$ 5,181,165.50

Construction Contract for UPRR Work

As stated above, the Port Work comprises the majority of the work required to complete the Project. However, a portion of the Project work includes rail and switch improvements directly impacting active track, as well as yard antenna relocation and yard light installation. As an owner and the operator of both South Rivergate Yard and Bonneville Yard, UPRR has the ability to designate itself to perform certain work. Per the Project's master agreement, the Port will contract with UPRR to perform this work (UPRR Work). The construction contract with UPRR for the UPRR Work will reimburse UPRR for all construction and construction oversight and management costs. The UPRR construction contract is subject to an agreed maximum price of \$2,471,905 and will be paid through periodic progress payments.

Exemption from Competitive Bidding: Contracting Authority

Award of this construction contract to UPRR is permitted under the sole-source class exemption from competitive bidding which the Commission previously approved under Port Contract Review Board Rules 7 and 9.4. Under those rules, the Executive Director may administratively grant exemptions from competitive bidding for certain public improvement contracts without further Commission action, provided that certain Commission-determined criteria are met. Prior to this Commission meeting, Executive Director Bill Wyatt administratively granted such an exemption with respect to the construction contract for the UPRR Work by UPRR. However, Commission approval is still required to award the construction contract to UPRR, because that contract exceeds the Executive Director's delegated contracting authority.

Waiver of Bonding Requirements

This agenda item requests additional Commission action relating to the construction contract with UPRR. With relatively few exceptions, the Public Contracting Code (Code) requires contractors on public improvement projects to provide public agencies with performance and payment bonds. However, under ORS 279C.390, the Commission (acting in its capacity as the Port's Contract Review Board) has the authority to exempt certain contracts from the performance and payment bond requirement. Usually the Port requires construction contractors to provide both types of bonds. The performance bond guarantees that if the contractor defaults, the surety will complete the construction contemplated in the contract. The payment bond guarantees that suppliers, subcontractors and laborers will be paid in the event that the contractor defaults. The Commission has previously waived bonding requirements on certain public improvement contracts when circumstances merited.

In part because the UPRR Work will be performed on railroad-owned property, the construction contract for such work is unusual. Citing additional reasons discussed in more detail below, UPRR has requested that the Code's bonding requirements be waived with respect to the UPRR Work. Port staff concurs with UPRR's request. While UPRR will technically be the Port's "contractor" for the UPRR Work, UPRR is not a licensed construction contractor, so it typically does not purchase performance and payment bonds. As a result, even if the bonds are available, their cost may be higher than usual. UPRR also asserts that its financial strength and ability to perform under the contracts is comparable to that of a typical surety company that would provide the bonds.

Port staff believes that the sound financial condition of UPRR minimizes the risk that it will default on the construction contract, which diminishes the need for a performance bond. The majority of the UPRR Work will be performed by the UPRR and its own employees, not by subcontractors. This should help keep claims for payment to a minimum, which diminishes the need for a payment bond. Port staff concludes that the risk of adverse consequences arising from a decision to waive the bonding requirements on construction contracts for the UPRR Work is low.

Staff requests approval of the Executive Director's recommendation, as follows:

EXECUTIVE DIRECTOR'S RECOMMENDATION

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That approval is given to award a construction contract to Colf Construction Company for the Port Work, as defined above, in accordance with its bid; and

BE IT FURTHER RESOLVED, That approval is given to award a construction contract to Union Pacific Railroad Company for the UPRR Work, as defined above; and

BE IT FURTHER RESOLVED, That the Commission, acting in its capacity as the Port of Portland's Contract Review Board, specifically exempts the construction contract with Union Pacific Railroad Company from the statutory requirement for performance and payment bonds; and

BE IT FURTHER RESOLVED, That the Executive Director or his designee is authorized to execute the necessary documents on behalf of the Port of Portland Commission in a form approved by counsel.