

Date: July 24, 2024 (Jim to present at 8/14/24 Commission meeting)
To: Port of Illahee Board of Commissioners
From: John Piccone, P.E., Soundwest Engineering Assoc.
Subject: Projects Status Summary

Waterfront Improvement Project

• **Regulatory Update:**

Good progress has been made on all fronts with regulatory items and the following is a list of final items necessary prior to advertising for bids:

- We must still receive our corps permit for the in-water work; the Corps and NMFS are actively working on this now that the Tribal MOA is finalized. They tell me they hope to conclude this review by mid-August if everything goes well. NMFS did ask us to submit a marine mammal monitoring plan which was quickly finalized and submitted the week of July 22.
- We are still waiting for DNR's stewardship review to be completed per the Port's lease agreement and they tell us they hope to be done by the second week of August.
- We are also now waiting on the County to finalize the ROW license agreement which also appears to be achievable by August.

• **Design & Bid Manual Progress Update:**

- We have continued to prepare the bid manual sections and finalize design related items based on the anticipated regulatory schedule.
- Jim and I have discussed the various components of the bid manual in detail, and I have copied the table of contents below with brief explanations for each section so all Commissioners have a sense of what is typically required when bidding a public project of this type. The bid manual is a very comprehensive document that governs how the contract work will take place; the engineering drawings are only one component of these "contract documents". When the bid manual is complete, all Commissioners will have an opportunity to review it and express any comments or concerns, and/or have it reviewed by the Port's legal counsel if you so choose, prior to issuing the advertisement for bids.

- **Bid Manual Table of Contents & Description:**

- **Part 1 – Bidding Requirements**

Part 1 focuses on the numerous required forms and information the contractor must submit along with their bid price for the work. The majority of these items are required by state law for public agencies bidding work. This part of the bid manual includes the actual proposal sheets where the contractors will list their pricing for each work component as well as numerous other items that will also be submitted at the time of bid opening.

- Advertisement for Bids
- Bidder's Checklist
- Proposal
- Required Proposal Forms
- Non-Collusion Declaration
- Bid Deposit
- Statement of Proposed Subcontractors
- Contractor Certification Wage Law Compliance – Responsibility Criteria
- Supplemental Bidder Responsibility Criteria *The supplemental bidder responsibility section includes several pages of requirements the contractor must submit to demonstrate they are well qualified for the work. Procedures for rejecting the low bid contractor based on inadequate qualifications is prescribed by state law and this section serves to increase the Ports decision making ability in this regard.*

- **Part 2 – Contract Forms**

Part 2 includes all the necessary contract forms for execution once the project is awarded to the successful bidder. The primary contract for construction is only a couple pages but it clarifies that all the components of the bid manual, including all referenced manuals, also comprise the contract for construction.

- Contract for Construction
- Required Contract Forms
- Payment Bond
- Performance Bond
- Selection of Retainage Option
- Prevailing Wage Requirements

- **Part 3 – Special Conditions of the Contract**

Part 3 includes numerous provisions and requirements for completing the work that are specific to this project. It includes such items as communication protocols, project related contacts, contractors' responsibilities related to regulatory compliance, what submittals are required before performing the work, certain surveying and utility locate requirements, hours and days work can be done and how bad weather days will be

accounted for, construction testing, etc. This section also includes the very important section on how the work will be measured and paid for relative to the bid price received in the proposal.

○ **Part 4 – Technical Specifications**

Technical specifications are exactly what they sound like; all the very specific details related to materials and execution necessary for the installation of each item. On this project we will have two types of technical specifications; “performance specifications” where we only dictate the performance-based outcome of the work item, and “prescriptive specifications” where we detail more exactly what material to use and how it will be installed and tested. For example, on this project the contractor will have the latitude to shop around for different types of retaining wall blocks that meet basic guidelines (performance) but the type of asphalt will be exactly specified (prescriptive).

○ **Part 5 – Amendments to the Standard Specifications**

In addition to the provisions and specifications of part 3 and 4; part 5 incorporates by reference the WSDOT standard specifications for municipal work. This is a comprehensive document in and of itself and we incorporate it by reference to prevent having to reiterate many of the more standard specifications that generally apply to all projects of this type. However, it is sometimes necessary to make minor amendments to these so that they apply to the Port of Illahee in this case instead of WSDOT. The majority of those amendments are actually made by WSDOT periodically as a courtesy to Washington State municipalities and public agencies.

○ **Part 6 – Drawings**

The drawings are exactly what you’d expect and are either included in a single bound document with the rest of the manual or bound separately and included by reference.

○ **Part 7 – Appendices (Other Reference Documents Available by Request)**

The appendix is also a very important part of the bid manual as it includes such items as the project specific permits and various reports (like the contaminated material management plan the Commissioners authorized SLR to complete). By incorporating these items into the appendix, the information becomes part of the contract, and the contractor is responsible for compliance as well as being informed ahead of submitting bids.

- Appendix A: Miscellaneous Forms
 - A-1: Completed Affidavit on Behalf of Contractor
 - A-2: Completed Consent of Surety Company to Final Payment
 - A-3: Contractor's Certificate of Completion Form
- Appendix B: Permits
- Appendix C: Special Report

- **Notable Construction Period Expectations:**

- **Construction Costs and Port Budget:**

As we've discussed during numerous meetings, there has been a sequence of unfortunate delays in this project due primarily to negotiations with the Suquamish Tribe, coordination with Kitsap County including the regional stormwater treatment potential, and several other regulatory reviews with very long review periods.

As a result of these delays, the original estimated construction cost estimate (which was merely an estimate of probable cost range to begin with) is now likely to be lower than actual bids received due to multiple years of significant inflation in the construction industry. Proceeding with the approach that has been discussed previously, we will go ahead and receive bids as soon as everything is ready so the Port knows without guessing what the actual bid price will be. In an effort to save time after bids are opened, I suggest the Port revisit the existing budget and contingency options for additional funding ahead of actually opening bid. Also, as previously discussed, once we know what the bid amount is we can discuss any overages with RCO to see if there is any possibility of additional assistance from them. The bid documents will specify that award of the contract is contingent on the Ports post-bid evaluation of available funding.

- **Existing Site Conditions and Unknowns:**

As Jim and I have discussed at various points during the process of grant applications, permitting, and design (most recently discussed again during our site walk on 7-11-24); there are numerous existing site features and unknown elements associated with the project. Based on the discussions we've had with the Commission during the process to date, the directed approach was to not expend unnecessary expense upfront studying unknown elements but to resolve them only if necessary during construction. The basis of this approach was that if a certain condition exists the Port would need to pay costs associated with the condition regardless, and it was not desired to pay additional engineering or field study cost upfront and in addition to the construction costs. One representative example of this approach relates to the depth the float pilings will be driven to. To know the pile depth more precisely ahead of time the Port would need to incur the cost of marine subsurface borings however, the piles will ultimately be driven to the required structural depth regardless. Instead, we will require the contractor to drive the piles to a presumptive depth and then pay the added cost to drive deeper only if necessary.

This project site presents numerous similar unknown elements such as the existing shoreline retaining wall (concrete bulkhead) structural integrity, the existing fixed pier structure, the potential for contaminated soils and/or groundwater, unknown subsurface conditions in the upland portion of the site and around or beneath the existing residential structures, etc. The construction period approach is planned such that these unknowns will be addressed during construction in a fair and equitable way with the selected contractor, which may

necessitate change order costs the Port will incur if the unknown conditions do prove to present the need for additional work.

○ **Administration of Construction Activities:**

Administration of a construction project of this type is generally most successful when communication protocols and administrative procedures are well defined ahead of advertising for bids and as such these protocols and procedures will be included in part 3 of the contract documents. In addition to other administration items, the Part 3 draft currently specifies the following general items in greater detail:

- Project related contacts for the Port will be John Piccone (or his designee) and Jim Aho only. John and Jim will therefore correspond with the contractor on a regular basis during construction and provide the contractor with timely direction as construction progresses. This direction will be based on the approved project budget, including the approved project budget contingency amount, and any other high-level direction from the board. In an effort to prevent issues associated with miscommunication, the contractor will be prohibited from receiving direction from any other persons.
- “Construction observation” will be conducted by John Piccone (or his designee) and Jim Aho. The purpose of “construction observation” is NOT to direct the contractors means and methods of doing the work but rather to monitor the project for apparent compliance with the contract documents and intent of the work. No other persons will be permitted to perform “construction observation” however, ordinary observation from outside the primary construction limits should not present a problem provided it is from within safe limits and does not involve project related communications.
- Execution of documents will be the responsibility of Jim Aho based on the approved budget and any other higher decisions made by the board in advance. Jim will have the authority to execute change orders if necessary and/or approve design changes during construction, if within budget, in order to provide the contractor any necessary timely response.
- Payments associated with the construction process will be made on a regular basis in accordance with the contract document specifications and therefore will be reviewed when received by John and Jim and then transmitted to Jennifer Olsen to issue payment (provided there are no payments exceeding the pre-approved project budget including approved contingency). Payments to the contractor will generally be made on a monthly schedule based on the completed progress of work. Monthly or bi-monthly grant reimbursements are requested and received after the monthly payments to the contractor is issued.

In addition to these highlights, there are numerous other administrative matters specified in the contract documents and as mentioned above, all Commissioners will have an opportunity to review the contract documents prior to advertising for bids to better understand and approve what is proposed therein.

- **Anticipated Schedule;** Based on the current feedback we are receiving from the review agencies we are planning to follow the approximate dates below:
 - All regulatory approvals by mid-August,
 - Finalize the project manual for approval by or prior to Sept. 6 and transmit to all Commissioners for review.
 - Commissioner discussion related to bid manual and advertising and approval to proceed at Sept. 11 meeting as needed.
 - Publish advertisements for bids on or about September 11.
 - Schedule pre-bid meeting on site with interested bidders to allow for contractor inspections of the site and any in person questions they wish to ask by late September.
 - Open bids approximately mid-October (allowing the bidders at least 4 weeks to prepare bids.
 - Review bids and seek board direction on award of project mid to late October.
 - Work with the selected contractor to establish the contract and construction schedule for the various work items considering allowable in-water work windows, and wet winter weather considerations for the upland excavation work, with the goal of project completion by fall of 2025. As soon as we have a firm advertisement and bidding date established a firm end date will also be established and the bid manual will specify the total number of calendar days allowed for construction completion.

Permit Status Summary

Waterfront Access Project

Permit	Submittal Date	Permit Issued	Permit Status
SSDP	8-19-21	8-4-22	SSDP staff report notice of decision received and ready for inclusion in the bid manual.
HPA	4/9/24	5/24/24	Complete and ready for inclusion in the bid manual.
NWP	8-17-21	Pending – anticipated by mid August	Permit review is reportedly underway since we informed the Corps on the status of the Tribal agreement. We are continuing to check in regularly on the timeline to finalize and expressing urgency to the Corps.
SDAP	2-7-23	Approval issued 5/22/24	Approval Issued; Contractor to secure final permit after mandatory preconstruction meeting with Kitsap County.

BP	Anticipated by contractor in 2024	---	Contractor to submit final wall calculations and other items County may request based on their material bids and attend mandatory pre-construction meeting prior to issuing.
ROW	Anticipated by contractor in 2024	---	We are in process negotiating the license agreement with the county for improvements in the ROW. The final permit will be obtained by the contractor after submitting his bonds, traffic control plan, etc.
FIRE	Included with Building Permit	---	Design has preliminary approval under the SDAP.
DNR	Submitted following Tribal MOA	Anticipated by mid-August	All items requested to date have been submitted and we are waiting on approval and/or any additional conditions the DNR may issue. We are continuing to check in regularly and express urgency to finalize.

SSDP – Substantial Shoreline Development Permit (Kitsap County)
 HPA – Hydraulic Project Approval (WDFW)
 NWP – Nationwide Permit 3 (USACE)
 BP – Building Permit (Kitsap County)
 ROW – Right of Way (Kitsap County)
 Fire – Fire Code Permit (Kitsap County)
 DNR – Department of Natural Resources

Pile Replacement Project

Permit	Submittal Date	Permit Issued	Permit Status
Shoreline Exemption	9-22-22	2/15/23	Complete and ready for inclusion in bid manual.
NWP3	9-22-22	11-21-22	Complete and ready for inclusion in bid manual.
HPA	2020	2/14/20	Complete and read for inclusion in bid manual. This maintenance permit was obtained by others and will expire on 2/12/25. We will request a new permit or extension if needed once we understand the selected contractor’s schedule. Maintenance permits can usually be issued quickly, and this is not anticipated to impact the ultimate construction schedule if in-water work occurs in August of 2025.