



AGENDA
Regular Commission Meeting
121 NW Everett St. | Commission Room
April 14, 2010
9:30 a.m.

Minutes

Approval of Minutes: Special Commission Meeting – March 9, 2010
Approval of Minutes: Regular Commission Meeting – March 10, 2010

Executive Director

Approval of Executive Director's Report – March 2010

Public Hearing

Fiscal Year 2010-2011 Economic Overview and Proposed Budget *VINCE GRANATO
SCOTT DRUMM*

Consent Items

1. REVISION OF COMMISSION POLICY NO. 6.2.01 CONCERNING APPOINTMENT AND DUTIES OF ASSISTANT TREASURERS; AUTHORIZATION AND DESIGNATION OF ASSISTANT TREASURERS *ROBERT BURKET*

Requests a revision of the Commission policy concerning appointment and duties of Assistant Treasurers and authorization and designation of assistant treasurers.

2. COMMISSION DELEGATION OF CONTRACTING AUTHORITY POLICY 6.1.1 *CARLA KELLEY*

Requests approval to modify the Port of Portland's Commission Delegation of Contracting Authority Policy 6.1.1, as it relates to contracting for non-lawyer expert services integral to legal representation.

Action Items

3. AMENDMENT TO COMMISSION POLICY NO. 6.1.13 – AUTHORIZING RECEIPT OF CERTAIN EXPENSES *CARLA KELLEY*

Requests an amendment to existing Policy No. 6.1.13 to give the Commission President and Officers authority to approve Commissioners' participation in certain events.

4. CONSTRUCTION CONTRACT – NORTH RUNWAY EXTENSION, PHASE 2 – PORTLAND INTERNATIONAL AIRPORT *MARCEL HERMANS*

Requests approval to award a construction contract to Nutter Corporation for Phase 2 construction work of the North Runway Extension project at Portland International Airport.

5. CONSTRUCTION CONTRACT – BERTH 501 AND 503 DEEPENING – MARINE TERMINAL 5 *MARCEL HERMANS*

Requests approval to award a construction contract for the deepening dredging of Berths 501 and 503 at Marine Terminal 5.

6. COLLECTIVE BARGAINING AGREEMENT – MARINE FACILITY MAINTENANCE *BRENDA MEECE*

Requests approval of a three-year collective bargaining agreement between the Port of Portland and the District Council of Trade Unions, representing the 28 employees who perform maintenance at the Marine terminals.

REVISION OF COMMISSION POLICY NO. 6.2.01 CONCERNING APPOINTMENT AND DUTIES OF ASSISTANT TREASURERS; AUTHORIZATION AND DESIGNATION OF ASSISTANT TREASURERS

April 14, 2010

Presented by: Robert Burket
Controller

EXECUTIVE SUMMARY

This agenda item requests a revision of Commission Policy No. 6.2.01, concerning appointment and duties of Assistant Treasurers to 1) clarify the authority of Assistant Treasurers to make workers' compensation claim payment reimbursements to the Port of Portland's (Port) third-party provider on behalf of the Port; 2) update the title of one designated position from "Senior Manager, Financial Analysis and Forecasting" to "Senior Manager, Financial Analysis and Projects;" and 3) remove the title of "General Manager Financial Services" from the list of designated Assistant Treasurers.

EXECUTIVE DIRECTOR'S RECOMMENDATION

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That approval is given to the revised Commission Policy No. 6.2.01, concerning appointment and duties of Assistant Treasurers, dated April 14, 2010; and

BE IT FURTHER RESOLVED, That effective April 14, 2010, Bill Wyatt, Vince Granato, Robert A. Burket, Sugie Joseph, Suzanne M. Kenny and Andrea C. Marzette are designated Assistant Treasurers of the Port of Portland Commission and shall perform such functions and duties as the Commission shall authorize from time to time; and

BE IT FURTHER RESOLVED, That all previous Assistant Treasurer designations be rescinded from this date forward; and

BE IT FURTHER RESOLVED, That a copy of Commission Policy No. 6.2.01 concerning appointment and duties of Assistant Treasurers, as revised, shall be attached to the minutes of this meeting.

PORT OF PORTLAND COMMISSION POLICY

Appointment and Duties of Assistant Treasurers

Policy No. 6.2.01

Approved Commission Meeting of ~~August 9, 2006~~April 14, 2010

Assistant Treasurers are authorized to make payments on behalf of the Port of Portland, including cash payments by check or wire transfer and other payments pursuant to properly executed leases, purchase orders, and other contracts, in the following situations:

- To pay for essential transactions which do not require Commission authorization such as:
 - Taxes and assessments.
 - Utility services.
 - Insurance premium payments.
 - Workers' compensation claim payment reimbursements to the Port's third-party provider.
 - Payroll transfers and payroll taxes.
 - Payments required by court order, by an administrative adjudication, or by binding arbitration.
 - Payments in settlement of claims against the Port, where settlement has been authorized by the Executive Director or his designee.
 - Payment of legal fees approved by the General Counsel.
 - Payments otherwise within the authority delegated to the Executive Director by the Commission.
- To pay for transactions which have previously been authorized by the Commission, provided that prior to such payment the Assistant Treasurer has verified that appropriate Commission action has been taken.
- To countersign checks over \$10,000.

The Port of Portland Commission shall appoint Assistant Treasurers by resolution. It is the policy of the Port of Portland that the holders of the following positions shall be appointed Assistant Treasurers:

- Executive Director
- Chief Financial Officer
- Controller
- Senior Manager, Business and Financial Operations
- Senior Manager, Financial Analysis and Forecasting Projects
- ~~General Manager Financial Services~~
- Risk Manager

PORT OF PORTLAND COMMISSION POLICY

Appointment and Duties of Assistant Treasurers

Policy No. 6.2.01

Approved Commission Meeting of April 14, 2010

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 - Utility services.
 - Insurance premium payments.
 - Workers' compensation claim payment reimbursements to the Port's third-party provider.
 - Payroll transfers and payroll taxes.
 - Payments required by court order, by an administrative adjudication, or by binding arbitration.
 - Payments in settlement of claims against the Port, where settlement has been authorized by the Executive Director or his designee.
 - Payment of legal fees approved by the General Counsel.
 - Payments otherwise within the authority delegated to the Executive Director by the Commission.
- To pay for transactions which have previously been authorized by the Commission, provided that prior to such payment the Assistant Treasurer has verified that appropriate Commission action has been taken.
- To countersign checks over \$10,000.

The Port of Portland Commission shall appoint Assistant Treasurers by resolution. It is the policy of the Port of Portland that the holders of the following positions shall be appointed Assistant Treasurers:

- Executive Director
- Chief Financial Officer
- Controller
- Senior Manager, Business and Financial Operations
- Senior Manager, Financial Analysis and Projects
- Risk Manager

COMMISSION DELEGATION OF CONTRACTING AUTHORITY POLICY 6.1.1

April 14, 2010

Presented by: Carla Kelley
General Counsel**EXECUTIVE SUMMARY**

This agenda item requests approval to modify the Port of Portland's (Port) Commission Delegation of Contracting Authority Policy 6.1.1 as it relates to contracting for non-lawyer expert services integral to legal representation. The recommendation is to authorize the Executive Director and General Counsel to engage all such services regardless of contract amount.

BACKGROUND

In addition to serving as the Port's primary delegated contracting authority policy, Commission Policy 6.1.1 provides the primary framework for engaging attorneys and legal services. Policy 6.1.1 provides that the Executive Director and the General Counsel "are authorized to enter into contracts for legal services, consistent with the Commission Policy on Legal Services." Unlike the general delegation of contracting authority to the Executive Director which is capped at \$500,000 per contract year, this delegation for legal services is not limited in amount.

The Commission's policy on legal services (Policy 6.1.3) recognizes the Port's General Counsel as the Port's primary legal resource and "clearinghouse for all legal matters." This policy also recognizes that the Port will, from time to time, need to retain "competent attorneys in private practice with specific legal expertise and experience in areas where the Port has a need for additional legal services." Reading the delegation of authority to contract for legal services in Policy 6.1.1 together with Policy 6.1.3, it appears that the authority to contract for legal services without limitation on the contract amount is limited to contracts with attorneys in private practice.

Under the existing policy, it is quite common for outside counsel retained by the Port to retain experts and other necessary consultants directly and bill the Port for their ancillary services (approved by the General Counsel). However, there is some litigation which the Port finds most cost-effective to manage in-house through its own attorneys. The current policies do not clearly authorize the Executive Director or General Counsel to engage non-lawyer experts for such ancillary legal services without bringing the contracts to Commission for public hearing.

The Commission recognized under Policy 6.1.3 that sensitive and confidential legal services require a different contracting process than other Port service contracts. Thus the Commission delegated these decisions to the Executive Director and General Counsel. The same sensitivity of information and need for confidentiality in active or threatened litigation applies to legally necessary, non-lawyer expert consulting work when such consultants contract directly with the Port. The Public Contracting Code exempts this type of contract from its reach, allowing agencies to select non-lawyer expert consultants without using a competitive process.

COMMISSION DELEGATION OF CONTRACTING AUTHORITY POLICY 6.1.1

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Where in-house counsel have the lead on a legal matter, it would add unnecessary costs if the hiring of experts had to take place through a private law firm in order to protect the confidentiality of the matter.

For the reasons discussed above, we are recommending a simple amendment to Policy 6.1.1 under the heading Contracts for Legal Services, as follows:

“The Executive Director and the Port’s General Counsel are authorized to enter into contracts for legal services and other services integral to the provision of legal services, consistent with the Commission Policy on Legal Services.”

A redlined version of the complete policy is also attached, showing the proposed change. This change delegates authority to the Executive Director and General Counsel to enter into contracts for ancillary legal services as described above.

EXECUTIVE DIRECTOR'S RECOMMENDATION

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That the Port of Portland Commission Delegation of Contracting Authority Policy 6.1.1 dated April 14, 2010, is hereby approved as amended; and

BE IT FURTHER RESOLVED, That a copy of Commission Delegation of Contracting Authority Policy 6.1.1 dated April 14, 2010, be attached to the minutes of this meeting.

PORT OF PORTLAND COMMISSION POLICY

Delegation of Contracting Authority

Policy No. 6.1.1

Revised Commission meeting of April 14, 2010

Background

The Port Commission has delegated to the Executive Director by ordinance the responsibility for the daily management and administration of Port operations and affairs. The ordinance also provides that the Commission will establish by resolution the extent of the Executive Director's authority to enter into contracts, leases, use agreements, and other agreements.

This Commission Policy constitutes the delegation contemplated by the ordinance. Authority delegated to the Executive Director by this policy may be further delegated to persons designated by the Executive Director.

Contracts for the Purchase or Sale of Goods or Services

The Executive Director is authorized to enter into any contract for the purchase or sale of goods or services not exceeding \$500,000 per contract year, including without limitation contracts for goods, equipment, supplies, public improvements, services, and personal services.

The Executive Director is further authorized to enter into an amendment to an existing contract for the purchase or sale of goods or services when the amount of the amendment does not exceed \$500,000.

The Executive Director is authorized to enter into an amendment to an existing contract for the purchase or sale of goods or services, regardless of amount, when required to comply with the terms of the existing contract, or when required to complete the work contemplated by the existing contract.

The Commission may authorize the Executive Director, by separate ordinance or resolution, to contract for classes of goods, equipment, supplies, public improvements, services and personal services in amounts that exceed those specified in this policy.

The Executive Director shall report monthly to the Commission each contract for the purchase or sale of goods or services, and each amendment of a contract for the purchase or sale of goods or services, that exceeds \$50,000 and was executed pursuant to delegated authority.

Program Approval

The Commission may authorize the Executive Director to enter into all contracts necessary to implement a Program approved by the Commission by resolution, whether or not the individual contracts in the Program exceed the amounts specified in this policy. A Program is a project or other enterprise that will require the Port to award two or more contracts over a period of time.

Real Estate Transactions

The Executive Director is authorized to execute leases, licenses, permits, management agreements, use agreements, and agreements that otherwise permit others to enter upon or use property owned by the Port (collectively "real estate contracts"), provided that the real estate contract does not obligate the Port for a term longer than five years. The Executive Director is authorized to enter into routine easements, licenses, and permits for utilities or access, regardless

of the length of the term. The dedication of Port land to another governmental entity for a roadway in conjunction with Port development, and the grant of rights in Port land to another governmental entity for use in connection with aids to air or marine navigation, shall be considered "routine easements" for purposes of this policy.

The Executive Director is authorized to waive the Port's right of first refusal with respect to real estate transactions.

The Executive Director is authorized to give the Port's consent to subleases and assignments of leases of Port property, provided that the terms of the sublease or assignment are consistent with the purpose for which the original lease was executed, and (except as specified below) the sublease or assignment does not release the original lessee from any of its obligations under the original lease. The Executive Director may consent to a release of the original lessee if sufficient security is in place to assure that the Port is in substantially the same position as, or a better position than, under the original lease.

The Executive Director is authorized to amend a real estate contract to extend the term of the contract to a date not more than five years beyond the date of the amendment. The Executive Director is further authorized to amend a real estate contract to serve the strategic or business interests of the Port, provided the amendment does not increase the Port's obligations or decrease the Port's revenues by a net total of more than \$500,000.

The Executive Director is authorized to terminate, in whole or in part, real estate agreements, and to release lessees and users from some or all further obligations to the Port, when to do so serves the strategic or business interests of the Port and

- The remaining term of the lease or agreement is five years or less and the revenue foregone is less than \$500,000; or
- The Port has entered into or will enter into one or more leases or agreements for substantially all of the same property (or has consented to an assignment or sublease of substantially all of the property) on substantially the same or better terms.

Insurance and Benefits Contracts

The Executive Director is authorized to enter into contracts for insurance, provided that such contracts are consistent with a Commission-approved risk management plan for the Port.

The Executive Director is authorized to enter into contracts for employee benefits, provided that such contracts are consistent with a Commission-approved compensation plan for the Port.

Contracts for Legal Services

The Executive Director and the Port's General Counsel are authorized to enter into contracts for legal services and other services integral to the provision of legal services, consistent with the Commission Policy on Legal Services.

Disasters

In the event of a disaster, as defined below, the Executive Director is authorized to enter into any contract for which Commission approval normally would be required, provided that:

- Immediate execution of the contract is necessary to protect human life or safety on property owned or controlled by the Port, to protect Port property, or to allow the Port to

reinstate or continue services that are essential to the Port or to the Port's tenants or customers; and

- The contract award is promptly reported to the Commission.

For the purposes of this policy, "disaster" means any hurricane, tornado, storm, high water, earthquake, volcanic eruption, landslide, mudslide, snowstorm, drought, fire, explosion, war, act of terrorism, civil disturbance, or other catastrophe that causes or may cause substantial damage or injury to persons or property within the Port of Portland boundaries or area of jurisdiction.

Grants and Passenger Facilities Charges

The Executive Director is authorized to apply for, accept and amend grants from federal, state, local or private granting entities, consistent with priorities and objectives established by the Commission. The Executive Director is authorized to apply for, request amendment of, and accept authorization from the Federal Aviation Administration to impose and use Passenger Facility Charges, consistent with priorities and objectives established by the Commission.

The Executive Director shall report periodically to the Commission on any grants or PFC authorizations applied for and accepted pursuant to this policy.

Settlements

The Executive Director is authorized to enter into settlement agreements, releases, consent orders, consent decrees, stipulations, stipulated judgments, and other agreements and documents, in a form approved by counsel, necessary for the resolution of disputed claims brought by or against the Port of Portland or its Commissioners, officers, agents, or employees; provided, however, that:

- In the event a settlement agreement obligates the Port for payment of sums to a claimant in excess of \$250,000, the Executive Director shall consult with the Port's Chief Financial Officer and General Counsel prior to entering into a settlement; and
- In the event a settlement agreement obligates the Port for payment of sums to a claimant in excess of \$500,000, the Executive Director shall in addition obtain the consent of the President of the board of Commissioners or the Vice President if the President is unavailable and time is of the essence; the President or Vice President shall make all reasonable efforts to consult with the board's other officers prior to giving such consent.

AMENDMENT TO COMMISSION POLICY NO. 6.1.13 – AUTHORIZING RECEIPT OF CERTAIN EXPENSES

April 14, 2010

Presented by: Carla L. Kelley
General Counsel**EXECUTIVE SUMMARY**

Government ethics rules require prior written authorization if public officers, including Port of Portland (Port) Commissioners, are to accept expenses from third parties related to certain trade promotion missions, fact finding missions, negotiations, or economic development activities. This resolution establishes a mechanism for Commissioners to obtain the necessary prior authorization. This resolution would amend an existing Policy to give the Commission President and Officers authority to approve Commissioner's participation in these events.

BACKGROUND

Oregon's Government Ethics Law imposes limits on "gifts" which may be accepted by public officials, including Port Commissioners and employees. The term "gift" includes such things as payment, by third parties, of food, travel or lodging expenses. However, the law provides an exemption for such expenses on *officially sanctioned* trade-promotion missions, fact-finding missions, negotiations, or economic development activities.

"Trade promotion" means an activity for the purpose of encouraging or developing commerce or the buying and selling of goods and services.

"Economic development activities" are activities undertaken for the purpose of strengthening, expanding, or enhancing the economy, or activities that provide community development or cultural enhancement. Examples include assisting Oregon communities to build a capacity to retain, expand or attract business; improving national and global competitiveness of Oregon companies; improving transportation access; and marketing products, services, or opportunities.

"Fact-finding mission" includes any activity related to a cultural or educational purpose, or any activity aimed at providing intergovernmental assistance, such as for the purpose of international aid or sharing best practices, or developing intergovernmental relationships directly related to a public official's duties.

The Oregon Ethics Commission has adopted procedures to implement the requirement that these activities be "officially sanctioned." OAR 199-005-0020. For employees with supervisors, the rules require that supervisors approve receipt of these expenses in writing, in advance of the planned activity. With respect to agency heads such as the Port's Executive Director, the rules allow self-authorization. With respect to Commissioners, the rules require authorization by an action of the Commission as a whole, unless the Commission determines otherwise.

AMENDMENT TO COMMISSION POLICY NO. 6.1.13 – AUTHORIZING RECEIPT OF
CERTAIN EXPENSES

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Because Commissioners often participate in trade-promotion, fact-finding, negotiation, and economic development activities on short notice, with the possibility that expenses may be paid in whole or in part by third parties, authorization by the entire Commission is not always practical. This Resolution would establish a simple, transparent process for advance written approval of these specific activities. The Commission President (or a Commission Officer if the President is not available) would be given authority to approve the participation of any Commission member. Any Commission Officer would have authority to approve the Commission President's participation. The approval could be by electronic communication (e.g. e-mail), but the record of that communication would have to be printed for recordkeeping.

EXECUTIVE DIRECTOR'S RECOMMENDATION

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That Commission Policy No. 6.1.13 dated January 9, 2002, be approved as amended; and

BE IT FURTHER RESOLVED, That a copy of Commission Policy No. 6.1.13 dated April 14, 2010, be attached to the minutes of this meeting.

PORT OF PORTLAND COMMISSION POLICY

**COMMISSIONER TRAVEL AND OTHER EXPENSES
REIMBURSEMENT**

POLICY NO. 6.1.13

Approved Commission Meeting of ~~January 9, 2002~~ of April 14, 2010

Reimbursement of Commissioner Expenses by the Port

It is the policy of the Port of Portland, pursuant to ORS 198.190, that members of the Board of Commissioners of the Port of Portland shall be reimbursed for actual and reasonable traveling and other expenses necessarily incurred in attendance at Port Commission meetings, and in the performance of other official duties for the Port of Portland as approved by the Commission President. Reimbursement shall be in accordance with the Port's administrative policies for reimbursement of employee expenses. Port Commissioners may also retain Travel Awards earned while conducting business on behalf of the Port.

Receipt of Certain Expenses from Third Parties

State ethics law provides that a public official, such as a Port Commissioner, may accept reasonable food, travel or lodging expenses from third parties when the public official is representing the Port (a) on an officially sanctioned trade-promotion or fact-finding mission; or (b) in officially designated negotiations, or economic development activities, where receipt of expenses is approved in advance. Any Port Commissioner desiring such prior approval shall obtain it in writing from the Commission President, or from any Commission Officer if the President is not available. The Commission President may obtain prior approval in writing from any Commission Officer. Written approval may be in electronic form, but the approval must be printed for archiving at the earliest opportunity.

CONSTRUCTION CONTRACT – NORTH RUNWAY EXTENSION, PHASE 2 – PORTLAND INTERNATIONAL AIRPORT

April 14, 2010

Presented by: Marcel Hermans
Engineering Project Manager**EXECUTIVE SUMMARY**

This agenda item requests approval to award a construction contract to Nutter Corporation (Nutter) for Phase 2 construction work of the North Runway Extension (NREX) project at Portland International Airport (PDX).

BACKGROUND

The extension of the North Runway from its current length of 8,000 feet to 9,825 feet is currently underway. The longer runway will be needed to serve large passenger and cargo aircraft during the South Runway closure in 2011 for its pavement rehabilitation work. Having a longer North Runway will allow a full-time, six-month closure of the South Runway for construction that will greatly improve pavement quality and extend the South Runway's overall life.

The NREX project is being constructed over a two-year timeframe. In March 2009, Commission approved the Phase 1 construction contract. The associated Phase 1 construction work was performed from May through October 2009 and included rehabilitation of the existing runway, related utilities, surcharge of the extension areas, temporary signing, as well as striping and lighting modifications. Concurrently, the Federal Aviation Administration (FAA) completed the first phase of the navigational aids improvements necessary to lengthen the runway.

Phase 2 construction work includes extending both ends of the runway, two new taxiways, pavement removal and replacement, installation of a sewer main, grading and seeding, as well as utility, final signing, striping and lighting work. Construction is scheduled to occur from May 17 to October 17, 2010. During the same timeframe, the FAA will also modify and relocate navigational aids at PDX as part of NREX.

The five-month construction period will be broken up into three different stages. Different closures and use limitations will be in effect on both the North Runway and the Crosswind Runway during those stages. During the second stage, from July 17 through September 17, the North Runway will be closed for all aircraft use. The runway closure schedule has been closely coordinated with the FAA, airlines, key Port of Portland (Port) departments and other airport tenants.

Contract Information

Contract work will include the following: extending both ends of the runway (1,290 feet on the west end and 535 feet on the east end), two new taxiway sections, milling and replacement of

CONSTRUCTION CONTRACT – NORTH RUNWAY EXTENSION, PHASE 2 – PORTLAND INTERNATIONAL AIRPORT

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pavement surface at the intersection of Taxiways A and E, installation of a sewer main on the northwest side of the project area, grading and seeding to the north of the North Runway, as well as removal and installation of utilities, lighting, signing and striping.

The Port expects to give notice to proceed for the start of construction work on May 17. Substantial completion is expected by October 17, 2010. The runway is expected to re-open by October 31.

The overall NREX project budget is \$71,075,000. The project is being funded by a number of sources, including a ConnectOregon II grant, FAA Airport Improvement Program grants, and airline rates and charges.

Bids for the construction contract were received on March 25, 2010, as follows:

Nutter Corporation	\$ 14,998,900.22
Kodiak Pacific Construction	\$ 15,155,215.00
Coffman Excavation	\$ 15,207,971.25
Northwest Earthmovers, Inc.	\$ 15,290,037.80
Kerr Contractors, Inc.	\$ 15,910,055.25
Tri-State Construction, Inc.	\$ 16,866,000.00
Wildish Standard paving Co.	\$ 17,743,722.50
Engineer's Estimate	\$ 18,960,075.50

Kodiak Pacific Construction (Kodiak) submitted a bid protest on April 2, requesting that the Port reject Nutter's bid as non-responsive, due to the alleged inability of Nutter to meet the project's Disadvantaged Business Enterprise program goal, and requesting award of this contract to Kodiak instead. After review, the Port denied Kodiak's protest and rejected Kodiak's requests. Kodiak appealed the Port's decision on April 7, and as of the date of release of this agenda item, Kodiak's appeal was under review by the Executive Director. If the Executive Director has denied Kodiak's appeal by the date of this Commission meeting, the following recommendations will be made:

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 Nutter Corporation for Phase 2 of the North Runway Extension project at Portland International Airport, in accordance with its bid; 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.

CONSTRUCTION CONTRACT – BERTH 501 AND 503 DEEPENING – MARINE TERMINAL 5

April 14, 2010

Presented by: Marcel Hermans
Engineering Project Manager**EXECUTIVE SUMMARY**

This agenda item requests approval to award a construction contract to Hickey Marine Enterprises, Inc., for the deepening dredging of Berths 501 and 503 at Marine Terminal 5 (T-5).

BACKGROUND

The U.S. Army Corps of Engineers (Corps) is in the final stages of completion of the 43-foot Columbia River Channel Improvement Project, deepening the shipping channel from 40 to 43 feet. Anticipated completion date of the channel improvement project is the fourth quarter of 2010.

The Port of Portland's (Port) T-5 is located on the Willamette River about one mile upstream from the confluence of the Columbia River. The river section between T-5 and the Columbia River is naturally deep and ships can take advantage of tidal fluctuations as well. T-5 will be accessible by 43-foot-draft vessels once the Columbia River deepening project is complete. However, in order for the tenants at T-5 to serve the deeper-draft vessels, the berths will need to be deepened.

Berth 501 is used for export of grain by the Port's tenant Columbia Grain. Berth 503 is leased by Canpotex (Portland Bulk Terminals) and is operated on their behalf by Kinder Morgan Bulk Terminals for export of potash.

This project will deepen both Berth 501 and Berth 503 from their current 40-foot depths to 43-foot depths, which will require dredging of about 10,000 cubic yards at each berth. The dredging will be performed by a clamshell dredge and sediments will be loaded onto barges and moved to the dredged material placement site for offloading. The contractor will be responsible for the dredging, as well as the transportation and offloading of the dredged material from the barges to the West Hayden Island upland placement site.

This work is subject to a number of permits and certifications, including the Corps' Section 10 permit and the Oregon Department of State Lands (DSL) removal and fill permit. Applications for these permits were filed in March of 2009. The DSL permit was received in March 2010 and the Corps permit is expected to be received shortly.

Bids for the project were received on March 31, 2010, as follows:

Hickey Marine Enterprises, Inc.	\$649,998.50
Marine Industrial Construction, LLC	\$680,616.38
Ross Island Sand and Gravel Co.	\$1,153,597.01
Engineer's Estimate	\$1,177,912.00

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 for Terminal 5 Berths 501 and 503 deepening to Hickey Marine Enterprises, Inc., in accordance with its bid; 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.

COLLECTIVE BARGAINING AGREEMENT – MARINE FACILITY MAINTENANCE

April 14, 2010

Presented by: Brenda Meece
Human Resources Manager**EXECUTIVE SUMMARY**

This agenda item requests approval of a three-year collective bargaining agreement between the Port of Portland (Port) and the District Council of Trade Unions (DCTU), representing the 28 employees who perform maintenance at the Marine terminals.

On June 9, 2009, the Port and the DCTU entered into collective bargaining for a new agreement to replace the agreement that expired on June 30, 2009. On March 24, 2010, the parties reached a tentative agreement, with the following primary changes in terms and conditions to the collective bargaining agreement:

Term of Agreement: July 1, 2009, through June 30, 2012.

Wages: Effective July 1, 2009, no increase in wages. Effective July 1, 2010, and July 1, 2011 increase wages by the Consumer Price Index for Urban Wage Earners (March to March), with a minimum increase of 1.5 percent and a maximum increase of 3.0 percent.

Sick Leave: Effective July 1, 2010, all employees who have attained seniority (as described in the current agreement) as of March 31, 2010, will have 16 hours added to their accrued sick leave balance. Effective July 1, 2010, employees will accrue sick leave at the rate of four days per year. Effective the first pay period of the 2011/2012 fiscal year, employees will accrue sick leave at the rate of five days per year.

Licenses: Effective upon Commission approval, the Port will reimburse employees for the cost of licensing fees or certifications and/or continuing education required for licenses or certifications.

Miscellaneous: Language was added to grant unpaid leaves of absence to authorized Union representatives to conduct Union business, up to a maximum of 80 hours per agreement year. A provision was added that allows employees to waive health and welfare insurance. Language was added that requires employees to be assigned to day shift for the duration of jury duty or court appearance. Various housekeeping changes were also made.

EXECUTIVE DIRECTOR'S RECOMMENDATION

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That approval is given to enter into a collective bargaining agreement with the District Council of Trade Unions, representing the 28 employees who perform maintenance at the Marine terminals, for a three-year agreement, retroactive to July 1, 2009, containing wage, fringe benefit and working condition terms and conditions, consistent with the terms presented to the Port of Portland Commission; 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.