



AGENDA  
Regular Commission Meeting  
Port of Portland Headquarters  
7200 N.E. Airport Way, 8<sup>th</sup> Floor  
October 13, 2010  
9:30 a.m.

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**Minutes**

Approval of Minutes: Regular Commission Meeting – September 8, 2010

**Award Presentation**

Aviation Maintenance SHARP Certification presentation from Oregon OSHA

**General Discussion**

Navigation Update

*DOYLE ANDERSON*

**Consent Item**

1. COMMISSION INVESTMENTS POLICY 6.1.2

*TRACY WESTERFIELD*

Requests approval to renew Commission Investments Policy 6.1.2.

**Action Items**

2. ENACTMENT OF ORDINANCE NO. 436-B AUTHORIZING THE EXECUTION OF PORTLAND INTERNATIONAL AIRPORT LINE OF CREDIT

*SUGIE JOSEPH*

Requests approval of Ordinance No. 436-B to authorize the Port of Portland to obtain a line of credit to provide short-term interim financing for projects at Portland International Airport.

3. PERSONAL SERVICES CONTRACT AMENDMENT – DEICING SYSTEM ENHANCEMENTS – PORTLAND INTERNATIONAL AIRPORT

*GEORGE SEAMAN*

Requests approval of an amendment to a personal services contract to provide additional support related to the deicing system enhancement project at Portland International Airport.

4. EXEMPTION FROM COMPETITIVE BIDDING – RUNWAY 10R/28L REHABILITATION – PORTLAND INTERNATIONAL AIRPORT

*CHRIS EDWARDS*

Requests approval of an exemption from the competitive bidding requirement of Oregon's Public Contracting Code for a construction contract for the Runway 10R/28L Rehabilitation project at Portland International Airport.

5. EXTENSION OF THE WEST HAYDEN ISLAND  
INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF  
PORTLAND

*SEBASTIAN DEGENS*

Requests approval of a second amendment to an Intergovernmental Agreement with the City of Portland for planning services to complete a West Hayden Island plan district and annexation proposal.

**Executive Director**

Approval of Executive Director's Report – September 2010

**COMMISSION INVESTMENTS POLICY 6.1.2**

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October 13, 2010

Presented by: Tracy Westerfield  
Cash & Investment Program  
Manager**EXECUTIVE SUMMARY**

This agenda item requests approval to renew Commission Investments Policy 6.1.2.

Pursuant to ORS 294.035, for the Port of Portland (Port) to invest funds in securities with maturities longer than 18 months, the investments must be made in accordance with a written investment policy, adopted annually by the Port Commission. If material changes are made, the policy must be reviewed by the Oregon Short Term Fund Board.

We are not requesting any material changes to the policy.

**BACKGROUND**

The Commission Investments Policy provides the primary framework for the internal management of the Port's investment portfolio.

On August 31, 2010, the par value of the investment portfolio was \$256 million. The budget for interest income for the 2010/2011 fiscal year is \$6.7 million.

**EXECUTIVE DIRECTOR'S RECOMMENDATION**

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That the Port of Portland Commission Investments Policy 6.1.2 dated October 13, 2010, is hereby approved; and

BE IT FURTHER RESOLVED, That a copy of Commission Investments Policy 6.1.2 be attached to the minutes of this meeting.

# PORT OF PORTLAND COMMISSION POLICY

## INVESTMENTS Policy No. 6.1.2

Readopted Commission Meeting of October 13, 2010

### Objectives

The primary objective of the Port of Portland investment program is preservation of capital. Consistent with that objective, the cash flow needs of the Port and the "Prudent Investor Rule," available funds will be managed and traded to achieve the maximum possible yield. In order to achieve these objectives, and as a safeguard against adverse changes in cash flows, priority will be given to liquid investments, i.e., U.S. Treasury Bills and Notes and U.S. agencies.

### Diversification

The portfolio will be diversified so that the par value for each of the security classes shown shall not exceed the maximum position indicated as a percentage of the portfolio:

U.S. Treasury Bills and Notes	100% maximum
U.S. Agencies (but no single Agency position shall exceed 30% of the portfolio)	100% maximum
Corporate Indebtedness (subject to ORS 294.035)	35% maximum
Time Certificates of Deposit (TCD)	30% maximum
Bankers Acceptances (with qualified financial institutions in the State of Oregon as subject to ORS 294.035)	30% maximum
Repurchase Agreements Under 30 days	50% maximum
Oregon Short Term Fund (as subject to ORS 294.810)	As allowed under Oregon Statutes*

Investments in Bankers Acceptances, TCD's and other Corporate Indebtedness of any single company or qualified financial institution shall not, in the aggregate, exceed 5 percent of the portfolio.

### Investment Maturity

Since the Port's operating cash needs are generated through operating revenues rather than tax receipts, the Port has more flexibility in structuring maturities than is typical for a municipal district dependent primarily on tax resources. Investments will be timed to meet projected cash requirements unless a shorter maturity is desirable. Funds may be invested to a maximum maturity of five years from the date of settlement.

The portfolio will be structured to meet the following minimums:

- Two years and under, 55 percent of par value
- Three years and under, 75 percent of par value
- Five years and under, 100 percent of par value

\* The maximum allowable investment in the Oregon Short Term Fund (LGIP) is adjusted semiannually based on CPI. The current maximum investment is \$42,788,459.

In all cases, the "Prudent Investor Rule" shall apply to maturity decisions. The only exceptions to the maximum maturity shown shall be cases where the Port is using the security as collateral on an operating agreement or in instances where the Port is purchasing its own bonds in the marketplace to lower outstanding debt.

### **Investment Types**

The Port may invest its funds in securities or investments subject to ORS 294.035 and related statutes, with the following restrictions:

Time certificates of deposit with any issuer will not exceed 30 percent of the net capital of such issuer, based on their most currently published financial report.

Bankers acceptances guaranteed by a qualified financial institution shall not exceed 30 percent of the net capital of such institution, based on their most currently published financial report.

Municipal bonds, other than those issued by the Port of Portland, will not be purchased except under the following circumstances:

To the extent that any reserve or construction funds exist and are also subject to yield restrictions by U.S. Treasury regulations or code, such funds may be invested in municipal bonds subject to the provisions of ORS 294.035 and 294.040 and no more than 20 percent of such funds shall be placed with any single issuing authority other than the State of Oregon or one of its agencies.

Repurchase agreements shall not exceed a term of 30 days. Collateral provided to the Port under a repurchase agreement shall be deposited with the Port's custodian bank(s), marked to the market daily and maintained at a minimum level in conformance with ORS 294.035 (11).

Repurchase agreements may be entered into with authorized dealers or institutions when a master repurchase agreement or specific written contract governs the transaction. In no case will the total of such agreements with any firm exceed 10 percent of their equity (based on their most recently published financial report).

### **Authorized Dealers and Financial Institutions**

The Port may purchase or sell securities subject to the provisions of this policy through any of the following:

- Banks, savings and loans, and mutual savings banks authorized to do business in Oregon (not simply loan production offices).
- Primary security dealers as designated by the Federal Reserve Bank of New York and Oregon secondary dealers.
- Primary agency selling group members as designated by the U.S. agency involved.

### **Safekeeping**

The Port shall require delivery of all securities purchased (by means of physical possession or book-entry to the account of the Port) to its custodian bank(s). As noted under repurchase agreements above, securities acquired through repurchase agreements with the Port's custodian bank(s) may be held by the custodian bank(s). In all cases, payment shall be made only upon delivery.

**Reporting Requirements**

Quarterly, staff will provide the Commission with portfolio reports showing: investment transactions; trading gains and losses; investments owned; market value; yield; maturity distribution, or any such other report as the Commission may request. The Commission will have review authority over the investment program.

**Renewal**

This policy shall be reviewed annually by the Commission.

**ENACTMENT OF ORDINANCE NO. 436-B AUTHORIZING THE EXECUTION OF PORTLAND INTERNATIONAL AIRPORT LINE OF CREDIT**

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October 13, 2010

Presented by: Sugie S. Joseph  
Senior Manager  
Financial Analysis & Projects**EXECUTIVE SUMMARY**

This agenda item requests approval of Ordinance No. 436-B to authorize the Port of Portland (Port) to obtain a line of credit (Line of Credit) to provide short-term interim financing for projects at Portland International Airport (PDX). The Line of Credit would have a credit limit up to \$100 million to fund capital projects in the Airline Cost Center. Oregon Revised Statutes (ORS) Sections 778.145 to 778.175 and provisions of ORS Chapter 287A (collectively, the Statutes) permit the Port to authorize the issuance of revenue bonds by enacting an ordinance and for such revenue bonds to be issued in the form of promissory notes securing lines of credit.

**BACKGROUND**

The Airline Cost Center, which is primarily funded by the rates and charges assessed to the airlines for the use of the airport facilities, is expected to need financing for certain capital improvements at PDX, including deicing enhancements and certain runway improvements. The current plan of finance anticipates a two-step approach. The first step is to issue a fixed-rate bond to fund In-Line Baggage Screening Improvements, completion of the North Runway Extension, and other terminal and airfield improvements. In September 2010, the Commission approved Ordinance No. 435-B, authorizing the sale of Portland International Airport Revenue Bonds for this purpose.

The second step is to execute the Line of Credit, which will be a short-term, interim financing facility to provide funding primarily for South Runway and Deicing project expenditures through summer of 2011. This will enable the Port to go through the Federal Aviation Administration's (FAA) Passenger Facility Charge (PFC) application process and seek approval to fund the South Runway and Deicing projects with PFC revenues. We anticipate having a decision from the FAA in the summer of 2011. Once this application is approved, the Port will have the option of taking out the Line of Credit with stand-alone PFC bonds or some other long-term debt instrument.

At the Port's request, the Port's financial advisor, Seattle Northwest Securities Corporation, conducted a request for proposals (RFP) for a bank to provide the Port with an interim financing facility. There were four proposers and Wells Fargo was selected to provide the Line of Credit. Wells Fargo had the lowest pricing among the proposers while still meeting the other financing objectives.

**Line of Credit**

The Line of Credit will have a term of up to 24 months. It will be tax-exempt and not be subject to the Alternative Minimum Tax. The Line of Credit will be based on a fixed London Interbank Offered Rate (LIBOR) rate plus .366% up until December 31, 2010. If certain provisions of the

ENACTMENT OF ORDINANCE NO. 436-B AUTHORIZING THE EXECUTION OF PORTLAND INTERNATIONAL AIRPORT LINE OF CREDIT

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American Recovery and Reinvestment Act related to the bank's treatment of this type of tax-exempt line of credit are not clarified or extended beyond 2010, then the rate will be based on a fixed LIBOR rate plus .533%.

The Net Revenues of the Airport are pledged to repay the Line of Credit. This repayment obligation will be a Junior Lien Obligation (JLO) of the Net Revenues of the Airport, as defined in Ordinances No. 155 and 323. The Port currently does not have any bonds outstanding at the JLO lien level. The Line of Credit will be on parity with the current existing JLOs such as obligations under the swap agreement for the Series 18 bonds as well as the reimbursement agreement securing the direct pay letter of credit for the 2009 PFC bonds.

The Port expects to repay the Line of Credit with proceeds from a bond issue in the next 12 to 18 months. We expect to close the transaction with Wells Fargo to provide the Line of Credit in mid to late November 2010.

Delegation of Authority

Section 3 of Ordinance No. 436-B delegates authority to the Executive Director to take actions and sign the documents that are required to enter into the Line of Credit.

Participants in the Transaction

In addition to the Port, these are the primary firms involved in the transaction:

- Wells Fargo is the Line of Credit provider.
- K&L Gates LLP is bond counsel to the Port.
- Seattle-Northwest Securities Corporation is the financial advisor to the Port.
- PricewaterhouseCoopers is the auditor of the Port.

**EXECUTIVE DIRECTOR'S RECOMMENDATION**

The Executive Director recommends that the following resolutions be adopted:

1. That Ordinance No. 436-B, in the form presented to the Port of Portland Commission, be read by title only; and
2. That proposed Ordinance No. 436-B, in the form presented to the Port of Portland Commission, be enacted by a roll call vote.

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.

**ORDINANCE NO. 436-B**

**AN ORDINANCE AUTHORIZING THE EXECUTION OF A LINE OF CREDIT TO PROVIDE INTERIM FINANCING FOR PROJECTS AT THE PORTLAND INTERNATIONAL AIRPORT AND AUTHORIZING AND PROVIDING FOR RELATED MATTERS AND DOCUMENTS.**

WHEREAS, Oregon Revised Statutes (“ORS”) Sections 778.145 to 778.175 and provisions of ORS Chapter 287A (collectively, the “Statutes”) permit The Port of Portland (the “Port”) to authorize revenue bonds for the purpose of carrying into effect all or any of the powers granted to ports, and to secure those bonds with any revenues or other property of the Port; and,

WHEREAS, the Port’s current plan of finance for the financing of certain capital improvements to the Portland International Airport (the “Airport”) includes the execution of an interim financing facility to fund certain capital improvements at PDX, including deicing enhancements and certain runway improvements that is secured by net revenues of the Airport on a junior lien; and,

WHEREAS, the Statutes permit the Port to authorize revenue bonds by enacting an ordinance and for such revenue bonds to be issued in the form of promissory notes securing lines of credit; and,

WHEREAS, the Board of Commissioners of the Port (the “Board”) has determined and does hereby determine that authorizing the issuance of revenue bonds under the Statutes to provide interim financing to pay or reimburse the Port for the payment of costs of constructing, acquiring, equipping and installing certain capital improvements at PDX, including deicing enhancements and certain runway improvements at the Portland International Airport and related costs will be advantageous to the Port;

NOW THEREFORE, BE IT ENACTED BY THE PORT OF PORTLAND:

**Section 1. Terms Defined in Ordinance No. 155 and Ordinance No. 323.**

1.1 As used in this Ordinance No. 436-B (the “Ordinance”), the following terms shall have the following meanings:

“Bonds” means the revenue bonds authorized by Section 2 herein.

“Executive Director” means the Executive Director of the Port, the Director of Financial and Administrative Services/Chief Financial Officer of the Port, or the person designated in writing by the Executive Director to act on behalf of the Port under this Ordinance.

“Fund” has the meaning as defined in Ordinance No. 323.

“JLO Fund” has the meaning as defined in Ordinance No. 323.

“Junior Lien Obligations” has the meaning as defined in Ordinance No. 323.

“Ordinance No. 155” means Ordinance No. 155 of the Port, enacted on November 10, 1971, as it has been and may be amended, restated and supplemented.

“Ordinance No. 323” means Ordinance No. 323 of the Port enacted on October 9, 1985, as amended and restated on March 8, 2006 and as it has been and may be amended, restated and supplemented.

“Projects” means certain capital improvements at PDX, including deicing enhancements and certain runway improvements .

## **Section 2. Authorization and Security of Bonds.**

2.1 The Board hereby authorizes the Port to issue the Bonds (i) in an aggregate principal amount of up to \$100,000,000 to pay, or to reimburse the Port for the payment of, costs of the Projects, (ii) to pay capitalized interest on the Bonds, and (iii) to pay other costs related to issuing the Bonds.

2.2 The Bonds shall be issued as Junior Lien Obligation and shall be payable solely from the Net Revenues of the Airport that are available for deposit in the JLO Fund as provided in Section 6A of Ordinance No. 323 and in the documents authorized by Section 3 of this Ordinance.

## **Section 3. Delegation.**

Each Executive Director is hereby authorized, on behalf of the Port and without further action by the Board, to:

3.1 Provide that the Bonds may be issued in one or more series, which may be sold at different times;

3.2 Issue one or more series of the Bonds to provide interim financing for the Projects and enter into lines of credit or similar documents which permit the Port to draw Bond proceeds over time;

3.3 Establish the final principal amounts, maturity schedules, interest rates or methods of determining interest rates, sale prices, optional and mandatory redemption provisions, notice provisions, payment terms and dates, and other terms for the Bonds.

3.4 Select one or more commercial banks to negotiate the terms and execution of the Facility.

3.5 Create a Fund in the JLO Fund for the payment of the Facility and covenant to make additional deposits into the Fund to pay amounts due under the Facility.

3.6 Appoint, and enter into contracts with financial advisors, trustees, escrow agents and other service providers related to the Facility

3.7 Issue one or more series of the Bonds as tax-exempt obligations under the Internal Revenue Code of 1986, as amended, as obligations that bear interest that is includable in gross income for federal income tax purposes, as private activity bonds, or as taxable “Build America Bonds” or other types of borrowings that were authorized by the American Recovery and Reinvestment Tax Act of 2009 which are eligible for federal interest subsidies or tax credits.

3.8 Enter into covenants to maintain the tax status of each series of Bonds under the Internal Revenue Code of 1986, as amended

3.9 Execute any documents and take any other action in connection with the Bonds which the Executive Director finds will be advantageous to the Port.

**Section 4. Formal Matters.**

A concise summary of this Ordinance, including the location within the Port where a complete copy of this Ordinance may be obtained without charge, shall be published within five (5) days after passage in a newspaper of general circulation within the boundaries of the Port.

PASSED AND ENACTED by the Board of Commissioners of The Port of Portland at a meeting held on October 13, 2010, and signed by its President.

THE PORT OF PORTLAND

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Judi Johansen  
Commission President

Approved as to Form:

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K&L Gates LLP  
Bond Counsel

**PERSONAL SERVICES CONTRACT AMENDMENT – DEICING SYSTEM ENHANCEMENTS –  
PORTLAND INTERNATIONAL AIRPORT**

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October 13, 2010

Presented by: George Seaman  
Engineering Project Manager**EXECUTIVE SUMMARY**

This agenda item requests approval of an amendment in the amount of \$1,150,000 to the Camp Dresser & McKee, Inc. (CDM), personal services contract to provide additional design, construction, startup and programming support related to the deicing system enhancement project at Portland International Airport (PDX).

**BACKGROUND**

A Mutual Agreement and Order (MAO), effective October 5, 2006, between the Oregon Department of Environmental Quality (DEQ) and the Port of Portland (Port) requires the Port to complete the installation and testing of the enhanced deicing treatment and collection system by April 2012. During 2006-2007, the Port and air carrier co-permittees engaged in an analysis of conceptual alternatives including evaluation of numerous storage, treatment and discharge options. This process culminated with a recommended alternative to enhance the existing system by implementing the following improvements:

- Expand the existing system to capture runoff from the west end of the airport (Basin 1) into the dilute system.
- Increase the storage capacities of the existing concentrated and dilute systems.
- Treat dilute system effluent prior to discharge to the Columbia Slough and Columbia River. This includes construction and permitting of a new outfall to the Columbia River.

All concentrated runoff will continue to be collected, discharged to the sanitary system and treated at the City of Portland's treatment plant. Discharges of dilute runoff to the Columbia Slough would continue in compliance with permit limits. When conditions limit discharges to the Slough, dilute runoff would be treated and discharged to the Columbia River. In May 2007, the Commission approved the recommended design alternative as described above.

In September 2007, based on a competitive selection process, the Commission approved a contract with CDM to proceed with design of the deicing enhancements project. The schematic design effort was completed on June 30, 2008, to meet the committed MAO compliance milestone. The completion of the schematic design process and the development of environmental permit applications resulted in some modifications to the recommended design alternative. As modified, a portion of the concentrated runoff will be treated with an on-site anaerobic fluidized bed biological reactor prior to discharge. In addition, the more dilute runoff will be discharged directly to the Columbia River in compliance with permit limits.

PERSONAL SERVICES CONTRACT AMENDMENT – DEICING SYSTEM ENHANCEMENTS –  
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In May 2009, with the final design at 80% completion, Commission approved the awarding of the construction contract to JE Dunn Construction for a Negotiated Construction Price of \$48,470,000. At that time, the CDM contract was also amended to incorporate the final design modifications and anticipated construction support services required to complete the installation of the deicing enhancement system.

**Amendment to Personal Services Contract**

Port staff requested that CDM prepare a request for additional design services to complete tasks that had not been identified in their current contract. CDM's proposal incorporated added services to complete the following:

- Modeling of airport pavement and potential impact to deicing system due to additional shoulder widening requirements by the Federal Aviation Administration and design development of the South Runway Rehabilitation project.
- Significant additional construction support services (change order evaluation, request for information, submittal review, etc.).
- Construction revisions to address proposed value engineering alternatives, schedule modifications, unknown site conditions and constructability issues arising from the record rainfall in May-June 2010.
- Modifications to design drawings, submittals and programmable logic controller programming to reflect contractor input to original design intent.
- Visits to material suppliers and vendors to inspect equipment for quality control and design compatibility.
- Provide additional resources to participate in additional design and construction meetings not originally anticipated.
- Additional construction site visits and activities due to phased start up of programming and commissioning.

Based on an evaluation of rates and hours and subsequent negotiations with CDM, a contract amendment for additional design and construction support services in an amount not to exceed \$1,150,000 was reviewed by staff and determined to be fair and reasonable. CDM would be compensated based on established hourly rates and approved reimbursable costs. This amendment will cover the cost of CDM's four sub-consultants (including two emerging small businesses).

The current CDM contract is \$9,048,061. With the proposed contract amendment of \$1,150,000, the total CDM contract amount would be \$10,198,061.

**EXECUTIVE DIRECTOR'S RECOMMENDATION**

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That approval is given to amend the existing contract with Camp Dresser & McKee, Inc., for construction support services for the Deicing Enhancements Project at Portland International Airport, consistent with the terms presented to the 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.

**EXEMPTION FROM COMPETITIVE BIDDING – RUNWAY 10R/28L REHABILITATION –  
PORTLAND INTERNATIONAL AIRPORT**

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October 13, 2010

Presented by: Chris Edwards  
Engineering Project Manager**EXECUTIVE SUMMARY**

This agenda item requests approval of an exemption from the competitive bidding requirement of Oregon's Public Contracting Code (Code) for a construction contract for the Runway 10R/28L (South Runway) Rehabilitation project at Portland International Airport (PDX). For the Port of Portland (Port) to award the contract under the proposed alternate contracting method, the Port's Contract Review Board must exempt the contract from the Code's competitive bidding requirement.

**BACKGROUND**

In 2011, the Port will fully reconstruct PDX's South Runway, as the third and final phase of the Port's three-year runway rehabilitation project. The Port completed Phase 1 of the runway rehabilitation project in 2009 and completion of Phase 2 is scheduled for later this year. Phases 1 and 2 serve to extend PDX's North Runway so that it can accommodate all airplanes serving PDX, including certain larger aircraft which previously would have incurred a weight penalty departing on the shorter North Runway. Phases 1 and 2 of the project will enable the South Runway to be completely closed for a six-month period during 2011 in order to complete Phase 3 of the project as efficiently as possible.

In March 2010, the Commission approved the Port's award of a personal services contract to HNTB Corporation (HNTB) for engineering design services for the project. Construction plans and specifications are currently 60-percent complete.

The South Runway project is technically and operationally complex and must be accomplished within an extremely tight schedule in a constrained work environment. Timely completion of the project with a high-quality product is essential given the critical nature of the work, and will require the services of a qualified, experienced construction contractor with the demonstrated capability to handle a project of this magnitude and complexity. However, under the Code's default competitive bidding requirement, contracting agencies may only perform a limited review of bidders' qualifications and experience.

**Alternate Contracting Method**

The Code embraces alternate contracting methods for complex public improvement projects. To use an alternate contracting method, an agency's Contract Review Board (CRB) must grant an exemption from the Code's competitive bidding requirement. In granting the exemption, the CRB must require and approve or disapprove written findings that support the award of the contract without the competitive bidding requirement. The final findings in support of the exemption requested under this agenda item (Findings) are attached as Exhibit A.

EXEMPTION FROM COMPETITIVE BIDDING – RUNWAY 10R/28L REHABILITATION –  
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As detailed in the Findings, staff propose to use an alternate contracting method comprised of first prequalifying prospective bidders using a Request for Statements of Qualifications (RSOQ) process, after which the Port would solicit bids only from bidders that have been qualified under the RSOQ. The RSOQ model would retain the Code's basic competitive bidding mechanism, consistent with the public policy of encouraging competition. The Port would still evaluate prospective contractors based primarily on project cost, but the Port would also evaluate the bidders' specific, applicable qualifications and past experience. The Federal Aviation Administration (FAA) is currently reviewing the Port's request to use an RSOQ model for this solicitation; the Port expects to receive a response during October 2010. If the FAA does not approve of the RSOQ model, the Port would structure a low-bid solicitation that allows for a heightened level of review of the bidders' qualifications and experience at the time of bid. That type of solicitation is permissible under the FAA's existing bidder prequalification guidelines and would not require FAA approval, but the Port would still require an exemption from the Code's competitive bidding requirement.

The Port does not expect to use the Request for Proposals (RFP) format for the South Runway project; the FAA prefers a competitive bidding process which is based primarily on price, but which also allows close evaluation of the bidders' qualifications and experience. The Findings contain additional information about the proposed alternate contracting methods.

As required under the Code, public notice of the Port's intent to seek an exemption from competitive bidding was published and a public hearing was held on October 1, 2010. A summary of the comments received at the hearing, and the Port's response thereto, have been incorporated into the Findings. In order for the Port to award the South Runway project construction contract under an alternate contracting method which is acceptable to the FAA and meets the Port's project goals, Oregon law requires that the Port's CRB exempt the contract from the Code's competitive bidding requirements.

**EXECUTIVE DIRECTOR'S RECOMMENDATION**

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That the Port of Portland Commission, in its capacity as the Port of Portland Contract Review Board, approves the Findings in Support of an Exemption from Public Bidding set forth on the attached Exhibit A, dated October 13, 2010; and

BE IT FURTHER RESOLVED, That the Port of Portland Commission, in its capacity as the Port of Portland Contract Review Board, specifically exempts from competitive bidding public improvement contracts for the South Runway Rehabilitation Project, consistent with the terms presented to the Commission.



**RUNWAY 10R/28L REHABILITATION (SOUTH RUNWAY)  
PORTLAND INTERNATIONAL AIRPORT**

**FINDINGS IN SUPPORT OF AN  
EXEMPTION FROM COMPETITIVE BIDDING  
OCTOBER 13, 2010**

**1. Project Background**

In 2011, the Port of Portland will fully reconstruct the south runway at Portland International Airport (PDX), as the third and final phase of the Port's three-year runway rehabilitation project. This phase of the runway rehabilitation project, known as the Runway 10R/28L Rehabilitation (South Runway) project, is a technically and operationally complex undertaking that must be accomplished within an extremely tight schedule in a constrained work environment. Completing the South Runway project in a timely manner with a high quality product is essential given the critical nature of the work, and will require the services of a qualified, experienced construction contractor with the demonstrated capability to handle a project of this magnitude and complexity.

The Port has closely coordinated this significant public improvement project with stakeholders, including the Federal Aviation Administration (FAA), the PDX Airport Airlines Affairs Committee (AAAC), and the Oregon Air National Guard (ORANG). Project stakeholders have substantial roles and responsibilities with respect to the project. The FAA is the oversight authority for project design, and is expected to provide partial project funding through its Airport Improvement Program (AIP). The AAAC, whose membership consists of the Port and those airlines that have committed to serving PDX and making significant contributions toward the cost of airfield improvements, has the authority to approve the scope and budget of this project. ORANG has agreed to reimburse the Port for that portion of the project costs attributable to replacement of the runway aircraft arresting systems, under a Military Construction Cooperative Agreement (MCCA).

Of primary importance to the long-term success of the South Runway project will be the quality of the finished product. Concrete was recommended for the runway reconstruction due to cost savings associated with its longevity, maintainability, sustainability, and operational advantages. However, if any phase of concrete construction – including preparation, reinforcement, paving, cutting and curing – is not done with the utmost expertise, these long term benefits would be compromised. This type of work requires a contractor possessing an extensive concrete background, airfield experience, sequencing knowledge, strategic implementation skills, and highly effective communication and coordination skills.

**2. Project Description**

Due to weather restrictions, operational constraints, and stakeholder needs, the South Runway project must be completed within a six-month continuous closure of the runway between April 6<sup>th</sup> and October 5<sup>th</sup> of 2011. The project will include the reconstruction of the existing 11,000 feet long by 150 feet wide asphalt runway with concrete; widening of the runway's asphalt

shoulders from 25 feet to 35 feet; removal of the lime-cement-pozzolan-flyash (LCPF) sub-base material in the western third of the runway; replacement of the ORANG aircraft arresting systems at both ends of the runway; rehabilitation of the asphalt blast pads and partial removal of the east end blast pad; and asphalt surface mill and inlay of the connector taxiway exits within the runway safety area. Three of the connector taxiway exits will be reconstructed in concrete. Taxiway F will also be reconfigured and reconstructed in concrete.

Other project elements will include the upgrade, replacement, abandonment, and/or reuse of a number of utility and airfield infrastructure items, including replacement of in-pavement runway lighting; installation of electrical vaults and duct banks; replacement of storm drains, underdrains, and sanitary sewer lines; new pavement markings; addition of signage; and pavement grooving.

There are several unique aspects of the project supporting the need to evaluate factors in addition to price in selecting the construction contractor. These include the size and scope of the project (the projected range for construction bids is \$40 - 60 million), past concrete quality issues at airports, the south runway's status as PDX's only CATII/III runway, the use of the south runway for military flight operations, the planned partial runway opening during construction, and the intersection of Runway 3/21 (crosswind).

### **3. Public Improvement Contract Solicitation Parameters**

Competitive Sealed Bidding. Under Oregon law, the default contract solicitation method for public improvement projects is competitive sealed bidding. This traditional, "low-bid" method of project delivery relies primarily on lowest total cost as the basis for award of the construction contract. Aside from an agency's ability to assess the low bidder's "responsibility" after bid opening, qualifications may not be considered in awarding a low-bid contract. For complex projects, assessing the low bidder's "responsibility" after the bid may not adequately assure the owner that the bidder will be able to complete the project satisfactorily. The "responsibility" review, which is prescribed by statute, is a relatively high-level review of a bidder's performance record and ability to bring appropriate resources to a project; it does not permit close scrutiny of a bidder's experience and other substantive qualifications.

If competitive sealed bidding were used for the South Runway project (making price the primary factor in contractor selection), given the current economic climate and the significant projected contract amount, the Port would likely have several bidders with minimal (or no) airfield construction experience and limited background in handling projects of similar complexity. The project is too critical to the mission of the Port and its stakeholders – including the airlines serving PDX, and the public – to utilize a solicitation method which does not take into account the prime contractor's qualifications and experience.

Alternate Contracting Methods. Oregon's Public Contracting Code (Code) embraces alternate contracting methods for complex public improvement projects. A stated policy goal of the Code is to: "[p]rovide a public contracting structure that can take full advantage of evolving procurement methods as they emerge within various industries, while preserving competitive bidding as the standard for public improvement contracts unless otherwise exempted." ORS 279A.015. Similarly, the Port's contracting rules promulgated under the Code are intended to: "maximize the Port's flexibility in adjusting its contracting procedure to the specific circumstances of each procurement, and to ensure that the Port receives the maximum benefit

from the public funds expended on public contracts.” Rule A.015. Under the Code, when appropriate, an agency’s local contract review board (CRB) may direct the use of alternate contracting methods that “take account of market realities and modern practices and are consistent with the public policy of encouraging competition.” ORS 279C.335(4).

An agency’s CRB directs the agency to use an alternate contracting method by granting an exemption from competitive bidding under ORS 279C.335(2). In granting the exemption, the CRB must require and approve or disapprove written findings that support the award of the contract without the competitive bidding requirement. The findings must show that the exemption of the contract complies with certain requirements, as are set forth below. The Code does not require that the findings define the final parameters of the project contract; instead the findings may describe its anticipated features. While the final alternate contracting method to be used by the Port for the South Runway project will be announced in the solicitation document (as permitted by the Code) after additional input from the FAA, the essential characteristics of the planned solicitation are described below.

#### **4. Anticipated Features of the South Runway Contract Solicitation**

FAA Review. Consistent with the public policy of encouraging competition, the Port’s South Runway project solicitation will retain the basic competitive bidding mechanism. The Port will still evaluate prospective contractors based primarily on project cost, but the Port also seeks the ability to evaluate the bidders’ specific, applicable qualifications and past experience. Depending on input the Port expects to receive from the FAA later this year, the final solicitation document will accomplish the evaluation of the bidders’ qualifications and experience in one or more ways, which are described below. Currently the Port does not expect to use the Request for Proposals (RFP) format. While the Port has successfully awarded multiple, large scale qualifications-based public improvement contracts using the RFP format, for this project the FAA has not recommended the use of an RFP. For South Runway the FAA has indicated a preference for a competitive bidding process based primarily on price, but which also allows the Port to closely review the bidders’ qualifications and experience.

Anticipated Solicitation. The Port intends to use an alternate contracting method comprised of first “prequalifying” prospective bidders under a Request for Statements of Qualifications (RSOQ) process, after which the Port would solicit bids only from bidders that have been qualified under the RSOQ. The solicitation for bids would also include certain experience requirements for key subcontractors. The FAA has stated that an RSOQ process requires FAA approval under their “Modification to Standard” process, which the Port has requested. The primary advantage to an RSOQ model is the Port’s ability to evaluate the prospective prime contractors’ specifically-applicable qualifications and experience before bids are opened, while still preserving the competitive bidding structure. Disadvantages include the additional burden on the Port to administer the process, and the delay and uncertainty involved with the FAA’s “Modification to Standard” process. If the FAA does not approve of the RSOQ model, and if an RFP is still unacceptable to the FAA at that time, the Port would still structure a low-bid solicitation that allows for a heightened level of review of the bidders’ qualifications and experience. The FAA has indicated that that type of hybrid solicitation is permissible under the FAA’s standing bidder prequalification guidelines, but the Port would still require an exemption from the Code’s competitive bidding requirement.

Not Bidder Prequalification under the Code. The South Runway solicitation is not structured as a mandatory prequalification under the Code's bidder prequalification statute (ORS 279C.430). Prequalification under that statute would require the Port to create and administer a formal, ongoing prequalification program, which has not been deemed cost-effective. It also would not permit a heightened level of review of bidder qualifications beyond the aforementioned statutory "responsibility" determination. Contractors that are prequalified with the Oregon Department of Transportation (ODOT) would also be rebuttably presumed to be prequalified under the Port's program, which would not best serve the Port's interests given the uniqueness of the South Runway project. As a result the South Runway solicitation will be solicited as an alternate contracting method under an exemption from competitive bidding, as described above.

## 5. Findings

Under the Code, an agency's CRB may exempt a public improvement contract from competitive bidding upon approval of certain findings submitted by agency staff which justify the exemption. The two required findings are underlined below, with supporting information following each:

a. It is unlikely that the exemption will encourage favoritism in the awarding of the contract or substantially diminish competition for the contract. The solicitation will be structured to prevent favoritism from playing a role in the selection of the project contractor. Contractor selection will be conducted through an open and advertised RSOQ process, and all qualified firms will be invited to submit bids. The Port will publish notice of the RSOQ in the Daily Journal of Commerce, just as is done in low-bid and RFP solicitations, to disseminate project information to all interested contractors. The Port will also post the RSOQ on the Port's website, and will notify all construction services suppliers that are registered with the Port of the opportunity. Potential bidders' qualifications will be evaluated based on objective evaluation criteria which will be clearly stated in the RSOQ. A cross-disciplinary team of Port personnel will evaluate the RSOQ responses, in an effort to mitigate the effects of any individual bias. Given the current market conditions, considerable competition is expected for the opportunity to bid as a general contractor on this project. Limiting the solicitation to only those bidders that are highly qualified will necessarily decrease competition for the contract, but within reason given the unique circumstances set forth in these Findings. Multiple construction contractors are expected to be able to qualify to bid via the RSOQ, so while competition is necessarily diminished when unqualified respondents are not allowed to bid, this is not expected to substantially diminish the field.

b. The awarding of the contract under the exemption will likely result in substantial cost savings to the agency. In making this finding, the CRB may consider appropriate factors including the information called for in ORS 279C.330, which follows in underlined text:

i. Operational, Budget, and Financial Data. Engaging a highly-qualified prime contractor is expected to reduce the risk of expensive, adverse impacts to the Port's operations, and to the airlines and others who operate at PDX. This project requires a high level of experience and competence in managing a project of this complexity and size in an operationally sensitive environment. In order to keep the project on track and within budget, the work will need to be carefully planned and executed. The Port's past experience with public improvement contract solicitations in complex projects suggests that cost savings are likely to be realized via the efficient and competent project supervision that only the highest-qualified prime contractors can offer.

ii. Public Benefits. The public benefits from using the proposed alternate contracting method are expected to include a higher quality project, greater project safety, a reduced impact to airport operations during construction, and a better long-term product. Cost savings should directly and indirectly result, benefiting the public by incrementally reducing the cost of airport operations locally. An example of an operational public benefit which is expected from using a highly-qualified contractor relates to the aforementioned six month runway closure. A contractor with proven experience is more likely to complete the project within its strict time parameters. If the project is not completed within the allotted timeframe, scheduled airport operations could not resume, resulting in significant additional costs. Contractors with experience with large and complex projects are also likely to have formalized and successful processes in place to support the Port's minority, women-owned, and emerging small business (MWESB) subcontracting and apprentice participation goals (to be set based on an availability analysis), benefiting the contracting community as a whole.

iii. Value Engineering. The proposed alternate contracting method allows the Port to select its contractor based on qualifications that include past airfield construction experience. A sophisticated contractor should be able to apply that experience to engage the Port in value engineering efforts where possible.

iv. Specialized Expertise Required. To be successful, this project will require a contractor with considerable experience with large, complex projects constructed in a sensitive environment. A qualified project manager with strong leadership skills is crucial to the success of the contractor's work. The proposed alternate contracting method will allow the Port to closely review the qualifications of each bidder's project manager and key management staff, to confirm the bidder's ability to carry out the demanding contractual obligations.

v. Public Safety. Selecting a contractor with past airfield experience via the proposed alternate contracting method allows for work planning that better ensures that construction activity is conducted in a manner which maximizes safety for construction workers, Port staff, efficient airfield operations and compliance with Department of Homeland Security and Transportation Security Administration security protocols.

vi. Market Conditions. Construction activity in both the public and private sectors remains slow. As stated above, considerable competition is expected for the opportunity to bid as a general contractor on this project. Even so, there are a limited number of contractors capable of adequately meeting the challenges presented by this project. By accepting bids from only highly-qualified contractors, cost savings should ultimately be realized because well-organized and experienced contractors typically submit fewer requests for contract price increases via change orders during the work. Using only a low-bid solicitation could result in increased cost due to an inexperienced prime contractor covering its losses by submitting questionable change orders.

vii. Technical Complexity. Using a highly-qualified contractor is intended to minimize expensive, post-completion problems which commonly stem from poor execution of projects of this size, nature (demanding concrete work), and complexity. The ability to coordinate and manage a project of this size and complexity would be especially challenging to an inexperienced contractor. The proposed alternate contracting method allows the Port to consider experience and expertise of the bidder and its personnel in the specific, applicable areas

of work. Capability in planning the work will be crucial. Timely completion of the work, to allow airport operations to continue in a safe and efficient manner, is crucial. The Port plans to encourage innovative planning that is possible only for those contractors with significant experience on complex projects. These characteristics are more commonly found in sophisticated contractors; eliminating those that do not possess these abilities before the bid process should result in a cost savings for the Port.

viii. Funding Sources. As stated above the project will be funded from multiple sources. By retaining a highly-qualified prime contractor, project expenses should be more predictably managed, increasing the likelihood that project budgets will be achieved. Managing the project to conform with projected budgets is essential for timely completion of this project and to ensure consideration for future funding from the sources funding this project. Overall a cost savings should result from the proactive project management available from the more experienced contractors that will bid under the proposed alternate contracting method.

## **6. Summary**

The traditional, price-only project solicitation method is inadequate for dealing with the complex, unique South Runway project, given its tight timelines, limited funding, and operational constraints. Exempting the project construction contract from the Code's competitive bidding requirement should help the Port manage project risk factors by engaging a highly-qualified contractor, while still preserving price competition as a central tenet of the process. The proposed contracting method is not likely to encourage favoritism or substantially diminish competition, is likely to result in substantial cost savings to the Port, and is consistent with the Code's stated policy of embracing alternate contracting methods when appropriate.

As required under the Code, a public hearing was held at 9:00 a.m. on October 1, 2010, in the Anchor Conference Room at 7200 N.E. Airport Way, Portland, OR to allow any interested party to present comment on the proposed exemption. The sole commenter, a representative of the Columbia Pacific Building Trades Council, sought additional information about the proposed bidder prequalification criteria, and about the availability of certain project documents under the Oregon Public Records Law. No changes are planned to the proposed alternate contracting method as a result of the comments received at the public hearing.

**EXTENSION OF THE WEST HAYDEN ISLAND INTERGOVERNMENTAL AGREEMENT WITH THE CITY OF PORTLAND**

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October 13, 2010

Presented by: Sebastian Degens  
Planning and Development  
Manager**EXECUTIVE SUMMARY**

This agenda item requests approval of a second amendment to an Intergovernmental Agreement (IGA) with the City of Portland for planning services to complete a West Hayden Island plan district and annexation proposal. The amendment increases payment to the City for reimbursement of planning costs in an amount not to exceed \$169,000 and extends the IGA through January 2012.

**BACKGROUND**

West Hayden Island (WHI) is located along the south shore of the Columbia River, just north of Terminal 6 and west of the BNSF railroad tracks. The approximately 825 acres includes vacant land, wildlife habitat, a dredge material handling facility, a City of Portland sewer outfall, and Bonneville Power Administration and Portland General Electric right-of-way and electric transmission lines. In-water areas immediately adjacent to WHI are used for barge mooring and log raft storage.

Metro brought WHI into the urban growth boundary in 1983 for the express purpose of satisfying a regional need for marine industrial facilities. In 1994, the Port of Portland (Port) purchased WHI to meet a future marine need due to its proximity to the Columbia River shipping channel, Class 1 mainline and Interstate 5. While the property is within the urban growth boundary, it is not within the City of Portland city limits. Required urban services for future development dictate the need to annex the property into the City of Portland for the provision of urban services. As part of the annexation process, the City assigns zoning and future development conditions through a plan district.

In Metro's 2040 Growth Concept Plan (1995), the northern portion of WHI was designated industrial and the southern portion designated as open space. In the 2004 Metro Title 4 decision, all of WHI was designated as Regionally Significant Industrial land and reflected in the updated 2040 growth concept. In 2005, Metro also identified WHI as a high-value riparian area and habitat of concern. In consideration of the high urban development value also on the site, WHI received a designation of moderate habitat conservation area in Metro's Title 13 process. Metro Title 13, Nature in Neighborhoods, code section 3.07.1330(B)(4)(a) states the City shall develop a district plan in cooperation with the Port.

In the summer of 2007, the City began preparation of the Hayden Island Plan (land east of BNSF railroad tracks). The Hayden Island Plan was scheduled to coincide with the work on improvements planned for the I-5 corridor across Hayden Island, known as the Columbia River

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Crossing. Given the timing of the Hayden Island Plan and the Columbia River Crossing, the City and the Port agreed to work collaboratively on future planning for the western portion of Hayden Island.

On May 29, 2009, the City and Port entered into an IGA to prepare a long-term vision for WHI. The Port agreed to pay the City \$440,000 for consultant and planning services through July 2010. The City initiated a process to consider annexation of WHI into the City of Portland and zoning in a manner compatible with Metro's 2040 Growth Concept Plan, Metro Titles 4, 11 and 13, and pertinent city, state and federal policies and regulations contingent upon the work contained in the IGA.

The Mayor's office appointed a Community Working Group (CWG) of 16 stakeholders and provided the group a charge: to determine how the uses of marine industrial, habitat and recreation might be reconciled and if a mix of uses was possible on WHI to recommend a preferred concept plan outlining the location and geography of the uses as the basis of development conditions and annexation.

Technical consultant work was completed in early July and the CWG reported their advice to City council on July 29, 2010. City Council unanimously approved Resolution No. 36805, directing Bureau of Planning and Sustainability staff to develop a legislative proposal for annexation of WHI to the City with the intent to protect at least 500 acres as open space, and identify no more than 300 acres for future deep-water marine terminal development.

As a result of the resolution, the City and the Port now desire to amend and extend the terms of the current agreement and work plan through the end of 2011 to address additional studies requested by the City Council. The work program items include development of a legislative proposal for annexation of WHI to the City with at least 500 acres for open space and no more than 300 acres for deep-draft marine terminal development, including a plan district with zoning and map amendments as well as the following additional studies to inform the proposal: rail analysis, port operational efficiencies, harbor marine land supply, transportation and bridge analysis, Port of Portland and Port of Vancouver coordination, natural resource inventory, costs and benefits, land management options and recreational analysis. The resolution directs city staff to complete the additional studies to inform a draft proposal for City Council consideration by December 2011.

**EXECUTIVE DIRECTOR'S RECOMMENDATION**

The Executive Director recommends that the following resolutions be adopted:

BE IT RESOLVED, That the Intergovernmental Agreement with the City of Portland be amended to provide additional funding of up to \$169,000 and extended to January 30, 2012, for planning services for West Hayden Island, including the development of a plan district and legislative proposal for annexation and adoption of City Comprehensive Plan and zoning designations; and

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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.