

CBJ DOCKS AND HARBORS BOARD
SPECIAL BOARD MEETING MINUTES
For Wednesday, April 22, 2020

I. Call to Order

Mr. Etheridge called the meeting to order at 5:00 p.m. in the Port Director's Office.

II. Roll Call

The following members were present by phone due to the COVID-19 Pandemic Social Distancing Mandates: James Becker, Chris Dimond, Steven Guignon, James Houck, Mark Ridgway, Annette Smith, Bob Wostmann, Budd Simpson and Don Etheridge.

Absent: none

Also present were the following: Carl Uchtyl – Port Director, Matthew Creswell – Harbormaster, Erich Schaal - Port Engineer, Teena Larson - Administrative Officer and Mary Wolf - Administrative Assistant 1.

III. Approval of Agenda

MOTION By MR. RIDGEWAY TO APPROVE THE AGENDA AS PRESENTED AND ASK UNANIMOUS CONSENT.

Motion passed with no objection

IV. Public Participation on Non-Agenda Items (not to exceed five minutes per person, or twenty minutes total time). - None

V. New Business

1. Close Out Fund of CIP H51-117 (Auke Bay Marine Station – Acquisition)
Presentation by the Port Director

Mr. Uchtyl said the three items in new business are all related. Yesterday was the bid opening for Statter Harbor Phase III (B) which is the float installation at Statter Harbor. Trucano Construction had the lowest bid at \$4.2M. The engineers estimate was \$3.9M, which put the low bid award about nine percent above the engineers estimate. Mr. Uchtyl wanted to make it clear that we have enough money in the CIP to award Statter Phase III (B) as well as finish Statter Phase III (A), which is the dredging project, to go forward. What we do not have is money for construction contingency, construction administration costs, protected species observers and City and Borough of Juneau (CBJ) salaries. All total of that is about \$600K.

Mr. Uchtyl said the easy way of funding the construction contingency would be to close out one project and the match from Archipelago Project. This is the broad discussion of how each of these three items relate with each other. Docks & Harbors did have a commitment from the City Manager for approximately \$3.2M from FY21 Marine Passenger Fees and State Marine Passenger Fees for the Statter Harbor Phase III project. We were expecting in July to have \$3.2M. The City Manager is not planning on funding that with the demise of this year's cruise season. We would not be expending any of these funds until late July, assuming the Board wants to approve Statter Phase III (B). The first time we need any administrative costs would be three or four months from today.

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Board Questions

Mr. Simpson asked Mr. Uchtyl while we would not be getting Marine Passenger Fees and related funding for FY21, is there a chance that the funding would still be available or allocated to the same project as a payback in a later year?

Mr. Uchtyl said to answer Mr. Simpson's question, he thinks there is a high probability that will happen. There is a great deal of support for this project. In the Cruise Line Agencies of Alaska (CLAA) lawsuit settlement they indicated their support for this project. The caveat to that settlement is that they are wanting to put head tax money towards the project in the amount of three quarters support with the idea that there would be a local buy in of twenty-five percent. That was the tradeoff. The City Manager is supportive of the project.

Mr. Uchtyl continued saying for item one to Close Out Fund of CIP H51-117 (Auke Bay Marine Station – Acquisition), we acquired the two acres with the ABMS in January 2018. To secure that property we had harbor enterprise money moved into the project so we could do some studies and surveying. We also added a hundred foot anchored float. We have had money in this Auke Bay Marine Station project just sitting there, so we can easily close it out. All the work that needs to be done is done at the ABMS. We used some of that money for some minor repairs, alarms and replacement of a lift station. Mr. Uchtyl said in his mind he was saving for leveraging of an Army Corps of Engineers project that will hopefully come someday. At this point given everything, it is fairly safe to close out this project and move this money into Statter Harbor Phase III (B) Project with the expectation that we get the match money from the downtown waterfront improvement project-Archipelago Project. Mr. Uchtyl said that \$222K of harbor money we will leverage into approximately \$800K that will be used for Statter Harbor Phase III Project.

Board Questions

Mr. Ridgway asked Mr. Uchtyl when he says when you think everything that needs to be done is done at Auke Bay Marine Station (ABMS) is there nothing left to be done or improved?

Mr. Uchtyl said we are always going to have maintenance issues at ABMS like pilings and roofs, but nothing that needs to be done now. We have been courting State Wildlife Troopers to lease the building and there may be some negotiating done with improvements, but there is nothing right now that needs to be done at the ABMS.

Mr. Wostmann asked what will happen if we need money for improvements if the State Wildlife Troopers want to make the move into the ABMS? If we drain this fund do we have another source of funds to make upgrades or modifications to make the lease attractive?

Mr. Uchtyl said the honest answer is no. We have about \$600K in CIP Project money for Aurora Phase III and we really do not have any other harbor monies out there. We have

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whatever we have in our operating funds for projects here and there. We do not have another pot of money to draw from.

Mr. Wostmann said on the next motion you are going to be proposing \$666K from the Archipelago Project. The last time we looked at that there was considerably more money in that fund (CIP H51-116). At the CIP Committee meeting, the table we looked at, there was \$2.4M in that project for Phase II that is currently on hold. Would it be possible to leave a remaining balance in CIP H51-117 that we can use to make the lease attractive and take a little more out of CIP H51-116?

Mr. Uchytel said the issue is the match money. The money that is at the ABMS is harbor enterprise money and we can leverage as much or as little of that money with the money that is at the Archipelago project which is all head tax. The issue is trying to follow the direction of the CLAA lawsuit that says they are supportive of the Statter project in three quarters money from head tax and one quarter coming from harbor money.

Ms. Smith said in this moment in time do we need to do this project right now. If we do have a cruise season it will hardly be used. We do not know what the season will be next year.

Mr. Uchytel said he would argue if it is not done now with these permits that require us to start in October, we will have to start over. It took us between eighteen months and two years to get the permits and they are only good for one year. If we do not award this at the appropriate time we will have to go through the very onerous National Marine Fisheries Service permitting process again. If we do not do it, we have dug a hole and we would look silly not moving forward doing the next phase. The project is virtually all head tax funded. We have a \$1M match from Statter Phase III (B) which is actually money considered a local match with the downtown Archipelago Project. The match money we agreed to was local money that was secured through non-cruise ship secured money. There is very little harbor money with the exception of what is being proposed today for the next phase.

Mr. Etheridge said if we do award it now it will not be ready for service for next year but the following year. If we have to go back through the permitting processes it will be two to three years before it can be built.

Ms. Smith said again, where are we going to pull contingency money from?

Mr. Uchytel said that is what we are talking about right now. The contingencies for the marine mammal or protected species observers and how to fund those administrative costs that support the construction costs plus contingency. We would use the money from the ABMS that would be leverage with money from the Archipelago Project for that cushion.

Mr. Ridgway said if we move forward with the float. Are there elements in the project that don't involve the permits and would we still get us what we want that could be carved out? Is the parking lot part of that project?

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Mr. Uchtyl said the parking lot is the next phase. The Statter Phase III (B) is only the float system, electrical, pump out, a retaining wall, the abutment for the gangway to the float. There is no uplands other than building the wall. There is not a whole lot of fluff that can be de-scoped.

Public Comment –

Mr. Paul Swanson, Juneau, AK said he was curious about the \$666K. Are we going to have to come back and ask for that money to complete the Archipelago Project?

Mr. Uchtyl said basically the downtown Archipelago Project is on an indefinite hold pending direction from the City Manager. Mr. Uchtyl spoke with the City Manager today and he is aware of this plan as well as what his vision is for the museum. Docks & Harbors were moving towards a Phase 1 and Phase 2 of the Archipelago Project until the City Manager asked us to take a pause because he wants to look at moving the Juneau Douglas Museum along the waterfront. It is now a wait and see. Regardless of what happens at the Archipelago, this money we are going to talk about on the next item, is not going to impact what we do in the next phase of Archipelago.

Mr. Watson, Juneau, AK asked to go back to \$621K, is that coming out of the funds or the ABMS.

Mr. Etheridge said that the \$621K is coming out of the Archipelago fund and \$221K is the next item and would come out of the ABMS fund.

Mr. Watson, Juneau, AK said the ABMS is largely unleased, how do we make improvements to get it leased? Usually the landlord has to put improvements into the building and not expect the tenant to do those improvements. You end up with a lower lease rate without improvements. His question is if we had a tenant and had to do \$75K in improvements, where is that money going to be pulled from?

Mr. Uchtyl said that any improvements would fall to the new tenant.

Board Discussion/Action

Mr. Wostmann would like to comment that he understands Mr. Watson's point of view and concern. Mr. Wostmann says that the Statter Phase III project is more important than possible improvements at the ABMS.

MOTION by MR. RIDGWAY: TO RECOMMEND THE CBJ ASSEMBLY APPROVE A TRANSFER OF \$221,635.69 FROM PROJECT H51-117 (ABMS ACQUISITION) TO PROJECT H51-108 (STATTER HARBOR IMPROVEMENT PHASE III AND ASK UNANIMOUS CONSENT.

Motion passed no objections.

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2. Transfer \$666,000 from CIP H51-116 (Archipelago) to CIP H51-108 (Statter Harbor Improvement Phase III)
Presentation by the Port Director

Mr. Uchytel gave more details on the Archipelago Project which awarded \$12.4M to Trucano. They are making good progress. The project completion should be in November 2020. There is \$2.4M in the CIP that is not being used and not committed. Phase II would have been to add a covered shelter with restrooms and a waiting area adjacent to the bus staging area. Mr. Uchytel said Phase II has been put on hold pending the review from the City Manager. The \$12.4M award, because of this potential museum, we are negotiating a de-scoping with Trucano Construction and we will receive additional de-scoping funds. This transfer of \$666K is just triple of what we have in the first motion. It does not effect what we need to do at Archipelago. Mr. Uchytel said there is a commitment from the City Manager and The Assembly at some point Docks & Harbors will come back and ask for more money. When we were teeing up this project we were asking for \$22M and they have appropriated approximate \$16M. Transferring this money will not affect the long term plan we have at Archipelago. It gives an opportunity to leverage our funds in a beneficial way at Statter Harbor.

Board Questions

Mr. Ridgway did not understand what Mr. Uchytel was saying and asked if the \$666K does not require a deduct from the contract. Does it represent actual work that will not be completed?

Mr. Uchytel said we always told the City Manager and the Assembly that we would be coming back for more money to finish off Phase II. Since we are not moving forward with Phase II at this point, this is just a transfer of money from that CIP. Archipelago Phase II was developed to ninety five percent and we are holding it in advance, awaiting further direction from the City Manager.

Public Comment - none

Board Discussion/Action

MOTION by MR. RIDGWAY TO RECOMMEND THE ASSEMBLY APPROVE A TRANSFER OF \$666,000 FROM PROJECT H51-116 (ARCHIPELAGO) TO PROJECT H51-108 (STATTER HARBOR IMPROVEMENT PHASE III) AND ASK UNANIMOUS CONSENT.

Motion passed no objection.

3. Bid Award – Statter Harbor Improvements Phase III(B) (DH20-021)
Presentation by the Port Director

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Mr. Uchytel said we opened the bids on April 21, 2020 with three bidders: Trucano Construction, Western Marine Construction and Pacific Pile & Marine. The three bids exact breakdown is on page four of the packet. Trucano Construction is the apparent low bidder at \$4.2M. That is about nine percent above the engineer's estimate of \$3.9M. Mr. Uchytel said he suspects the reason the bids came in higher is that we are in the middle of a pandemic and the contractors probably have some uncertainty with their suppliers and what the future is going to be. We have not spoken to Trucano yet about the numbers. Our process on sealed bids is we award the contract to the lowest qualified bidder which in the case is Trucano Construction.

Board Questions

Mr. Dimond asked if we know if there will be any delays in regards to materials with supplier being temporarily shut down right now.

Mr. Uchytel said there are provisions in the standard specs for delays, but we have no caveats to our bid specs that says we anticipate this or that. There are standards, Act of God specs in our boiler plate, but nothing specific to what is ongoing right now. There is too much unknowns on our behalf to make any major changes to our standard specs.

Mr. Ridgway said on the division one specs Act of God, if they are submitting their proposal after COVID-19 has been around for two months, how does Mr. Uchytel see how that would apply to them not meeting their schedule that is in their contract. What is the creative performance in the contract and if they were to apply to us if COVID-19 is affecting their suppliers who have already been affected. Is that relevant to the Act of God.

Mr. Uchytel said an Act of God or if there is a second wave of COVID-19 that would shut down the entire country again that could come in to play. If there is a second wave in China that could affect our steel piles. We do not have a buy in America Act. Something like this could happen. The contractor would have to show his inability because of an Act of God.

Mr. Ridgway said that is exactly what he was asking. If we award to Trucano and they say our supplier cannot deliver and we need more time and or more money, would you anticipate any type of protest from the other bidders?

Mr. Uchytel said the way our City Code works is you have until 5:00pm the day after the bid opening to protest. So there is no bid protest. Perhaps you are surmising, if we were in October and gave the contractor an additional three months, or we gave more for the steel because of the situation, one of the other competitors could complain but they could not file a protest. Protest as a legal term has already passed.

Mr. Dimond said say in six months Trucano is having trouble getting steel or the floats due to supplies and costs expeditiously go up. Does that fall at the feet of Trucano or to us to make up that funding?

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Mr. Uchytel said Trucano would have to be able to show damage or show that things that are outside of his control. So tomorrow or within four days of the bid award he has to provide his list of subcontractors not his suppliers. Trucano is held to the bid. So say he got steel from xyz supplier and they went under. We are not obligated to tell Trucano Construction to go to another supplier and now you are eligible for additional money. That is not in the contract.

Mr. Schaal said the construction of this phase is less disruptive to the harbor as in removal and replacement would be. This is adding capacity. So if worse came to worse, and after Trucano was certified as the low bidder, and they have the contract, if they are delayed for some reason, the impact to continue construction in the summer when we don't want to be, would be permit related and it would not directly affect the harbor. We have some comfort in knowing that this is expanding the harbor versus tearing it out and losing capacity and then trying to replace in time during the winter. Mr. Schaal said he thinks there is some flexibility to respond to the unknown of another wave of the COVID-19 happens and Trucano cannot meet the schedule.

Mr. Ridgway said do they provide you a fairly detailed bid breakdown? What were the big deltas between the government estimate, the proposal and the bids? Were there any areas that stuck out between the admin, the overhead and contingency fees?

Mr. Schaal said they do provide a breakdown based on the bid items. We have not digested it yet as it took all day because Pacific Pile & Marine submitted seven bid modifications, that included almost all of the bid tabs. This made the posting notice very long. Mr. Schaal said he does not have the delta between the engineers estimate and Trucano's bid.

Public Comment – none

Board Discussion/Action

Mr. Wostmann said the Finance Subcommittee discussed this at their meeting a couple of weeks back. Based on the value to the community of this improvement, the jobs it would create, support for locals, the risk of permit loss and the anticipation that eventually the cruise industry will recover, this project will greatly reduce the congestion in Statter Harbor. The Finance Subcommittee recommends that we proceed with this project.

MOTION by MR. RIDGWAY: TO RECOMMEND THE ASSEMBLY APPROVE AN AWARD TO TRUCANO CONSTRUCTION COMPANY FOR \$4,235,140 FOR STATTER HARBOR IMPROVEMENTS PHASE III (B) (PROJECT DH20-021) AND ASK UNANIMOUS CONSENT.

Motion passed no objections

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VI. Staff or Member Reports – none

VII Adjournment at 5:46 p.m. motion by Mr. Ridgway.