

#2471

FILED
10:18
FEB 19 2014
TASSI ONEIL
COUNTY CLERK

NOVATION AGREEMENT

Tillamook County, a political subdivision of the State of Oregon (Transferor); the Port of Tillamook Bay, an Oregon Port District (Transferee) and Northwest Hydraulic Consultants (NHC) enter into this Agreement as of February 6, 2014.

(a) THE PARTIES AGREE TO THE FOLLOWING FACTS:

- (1) NHC has entered into a contract entitled PROFESSIONAL SERVICES AGREEMENT TILLAMOOK COUNTY AND NORTHWEST HYDRAULIC CONSULTANTS DESIGN AND PERMITTING FOR THE OREGON SOLUTIONS PROJECT EXODUS SOUTHERN FLOW CORRIDOR PROJECT (SFC Contract) with the Transferor dated May 12, 2010, a copy of which is attached and marked Exhibit A and incorporated herein by this reference.
- (2) Pursuant to MODIFICATION #1, dated March 6, 2013, the term of the said SFC Contract was extended to March 31, 2015.
- (3) Under the terms of Section 2, the SFC Contract contemplates that the contract will be implemented on a Task Order basis, each of which would be individually negotiated and contain a separate scope of work, list of deliverables, schedule and cost estimate breakdown, but collectively would not exceed the \$640,122 dollar contract amount.
- (4) To date, six task orders have been executed and completed.
- (5) Due to the federal requirements of FEMA funding for the balance of the design and permitting work identified in the SFC contract, it is necessary that the SFC Contract be transferred from Transferor to Transferee.
- (6) Transferor is willing to assign to Transferee all of its rights and interests in the SFC Contract and Transferee is willing to assume all the obligations and liabilities of the Transferor in connection therewith as set forth herein.
- (7) Transferee is in a position to fully perform all obligations that may exist under the SFC Contract.
- (8) It is consistent with NHC's interest to recognize the Transferee as the successor party to the SFC Contract.

(b) IN CONSIDERATION OF THESE FACTS, THE PARTIES AGREE THAT BY THIS AGREEMENT

- (1) The Transferor hereby transfers to Transferee the SFC Contract and waives any claims and rights against NHC that it now has or may have in the future in connection with the SFC Contract.
- (2) The Transferee agrees to be bound by and to perform the terms of the SFC Contract in accordance with the conditions contained therein. The Transferee also assumes all obligations and liabilities of the Transferor under the SFC Contract as if the Transferee were the original party to the SFC Contract.
- (3) The Transferee ratifies all previous actions taken by the Transferor with respect to the SFC Contract, with the same force and effect as if the action had been taken by the Transferee.
- (4) NHC recognizes the Transferee as the Transferor's successor in interest in and to the SFC Contract. The Transferee by this Agreement becomes entitled to all the rights and interests of the Transferor in and to the SFC Contract as if the Transferee were the original party to the SFC Contract.
- (5) All expenditures made by Transferor under the SFC contract through the effective date of this Agreement are not reimbursable to Transferor by Transferee. Transferee shall only be responsible for payments due NHC under the SFC Contract on or after the effective date of this Agreement.
- (6) Work under this contract will be funded in part with federal funds from the Federal Emergency Management Agency (FEMA). NHC will comply with the applicable requirements of 44 CFR 13.36.
- (7) The SFC Contract shall remain in full force and effect, except as modified by this Agreement. Each party has executed this Agreement as of the day and year first above written.

Dated this 18th day of February, 2014.

THE BOARD OF COMMISSIONERS
FOR TILLAMOOK COUNTY, OREGON

Bill Baertlein
Bill Baertlein, Chair

Tim Josi
Tim Josi, Vice-Chair

Mark Labhart
Mark Labhart, Commissioner

Dated: Feb. 12, 2014

PORT OF TILLAMOOK BAY

Jim Young
Jim Young, President

NORTHWEST HYDRAULIC
CONSULTANTS (NHC)

Todd Bennett

- (1) The Transferor hereby transfers to Transferee the SFC Contract and waives any claims and rights against NHC that it now has or may have in the future in connection with the SFC Contract.
- (2) The Transferee agrees to be bound by and to perform the terms of the SFC Contract in accordance with the conditions contained therein. The Transferee also assumes all obligations and liabilities of the Transferor under the SFC Contract as if the Transferee were the original party to the SFC Contract.
- (3) The Transferee ratifies all previous actions taken by the Transferor with respect to the SFC Contract, with the same force and effect as if the action had been taken by the Transferee.
- (4) NHC recognizes the Transferee as the Transferor's successor in interest in and to the SFC Contract. The Transferee by this Agreement becomes entitled to all the rights and interests of the Transferor in and to the SFC Contract as if the Transferee were the original party to the SFC Contract.
- (5) All expenditures made by Transferor under the SFC contract through the effective date of this Agreement are not reimbursable to Transferor by Transferee. Transferee shall only be responsible for payments due NHC under the SFC Contract on or after the effective date of this Agreement.
- (6) Work under this contract will be funded in part with federal funds from the Federal Emergency Management Agency (FEMA). NHC will comply with the applicable requirements of 44 CFR 13.36.
- (7) The SFC Contract shall remain in full force and effect, except as modified by this Agreement. Each party has executed this Agreement as of the day and year first above written.

Dated this 15th day of February, 2014.

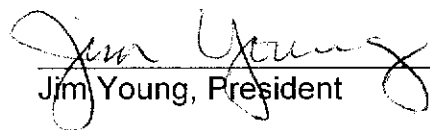
THE BOARD OF COMMISSIONERS
FOR TILLAMOOK COUNTY, OREGON

Bill Baertlein, Chair

Tim Josi, Vice-Chair


Mark Labhart, Commissioner

PORT OF TILLAMOOK BAY



Jim Young, President

NORTHWEST HYDRAULIC
CONSULTANTS (NHC)



Todd Bennett