

SOUTH JERSEY PORT CORPORATION



BOARD OF DIRECTORS SPECIAL TELECONFERENCE MEETING MONDAY, FEBRUARY 7, 2022 10:00 am

THE CHAIRMAN COMMENCES MEETING WITH PLEDGE OF ALLEGIANCE AND ROLL CALL:

1. AGENDA ITEMS REQUIRING BOARD ACTION:

**RESOLUTION # 2022-02-0017: APPROVAL TO AMEND
RESOLUTION 2022-01-0007 (APPROVAL TO ISSUE AN
EMERGENCY CONSTRUCTION CONTRACT TO
DEMOLISH AND REMOVE THE COLLAPSED
PUMPHOUSE AT THE BROADWAY TERMINAL,
INSTALL RIPRAP TO STABILIZE THE SHORELINE, AND
TO REPAIR THE DAMAGED ROADWAY) FOR THE
NORTH SIDE H-SLIP AREA OF THE BROADWAY
TERMINAL**

REQUEST

At their January meeting, the Board approved Resolution 2022-01-0007 to award an emergency construction contract to AP Construction, Inc., to demolish the collapsed pumphouse at the Broadway Marine Terminal. Staff is now requesting the Board to amend that contract to include demolition and stabilization of the collapsed portion of the H Slip area on the same site. This amendment is in response to a court order (DOCKET C-55-20), to remediate the collapse that occurred north of the pumphouse, otherwise identified as the H Slip area.



BACKGROUND

On May 26, 2020, a pump house structure owned by South Jersey Port Corporation and leased by Holtec Technology Center, LLC collapsed into the Delaware River. Originally slated for demolition during the Holtec site construction, the building was not demolished, at the request of Holtec, with their intent of possible reuse. Holtec's attempted renovation of the pump house structure and subsequent deterioration appears to have resulted in the eventual collapse. The collapse of the building led to litigation pursuant to which the Court has issued a preliminary finding that the perimeter roadway for the site, which is used for emergency vehicles, may be compromised. The Court has further issued a preliminary ruling, that the Port take immediate remedial action, including but not limited to the demolition of the remaining pump house structure, embankment stabilization, and repairs to the roadway.

PROCEEDINGS

Following the collapse, South Jersey Port Corporation was issued a court order on July 29, 2020 and again on October 28, 2021 requiring us to remove the collapsed pumphouse and stabilize the shoreline. Holtec has since filed a motion in aid of litigant's rights seeking immediate remedial action. At the direction of Counsel regarding the ongoing Holtec litigation proceedings (DOCKET C-55-20), Staff is now requesting Board Approval to issue an Emergency Construction Contract to demolish and remove the remaining building remnants from the river, install riprap along the deteriorated bulkhead sea wall, and repair the adjoining damaged roadway.

Staff had previously directed SJPC consulting engineers ST Hudson to prepare plans and specifications for the work. On January 12, 2022, Staff issued the resulting Invitation for Bids to five (5) prequalified construction firms. On Monday, January 17, 2022, 3 bids were received:

On January 25, 2022, SJPC Board of Directors voted to approve Resolution 2022-01-0007, which allowed for the expedited execution of a construction contract to demolish and remove the collapsed Pumphouse and to install riprap to stabilize the shoreline and to repair the damaged roadway.

On February 1, 2022, the Court ruled that the current condition of the North Side Seawall of the Broadway Marine Terminal is an emergent condition that was not adequately addressed by SJPC to date. The Court imposed the following conditions against SJPC:

- 1) A continuing monetary sanction of \$5,000.00 per calendar day to be held in trust or abeyance until further order by the Court beginning on February 2, 2022 and continuing until either (a) the parties agree in writing that all remediation and related issues pertaining to compliance with the Court's Orders dated July 29, 2020 on October 28, 2021, or (b) by Order of the Court;

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2) SJPC is to pay the monetary sanction every two (2) week period, beginning on February 2, 2022, with the first payment due on February 15, 2022;

3) Both parties are directed to meet through counsel every two (2) weeks to review the progress of Defendant in fully complying with the above-referenced Court Orders; and

4) Every three (3) weeks SJPC's counsel shall be responsible for sending the Court a written Status Report that shall be initially drafted by Defendant, to the Court (copying Holtec's counsel), and that through the Status Report Defendant may request that the Court either stop, freeze, or otherwise end the sanctions for good cause shown.

SJPC counsel is currently negotiating the final terms of the above mentioned order. The next Case Management Conference is scheduled to occur on February 23, 2022 and presents an opportunity for the SJPC to lift the above mentioned sanctions and conditions so long as emergency powers are used to expedite repairs for the North Side Seawall of the Broadway Marine Terminal.

RECOMMENDATION

Staff recommends Board Approval of RESOLUTION 2022-02-0017 to amend the demolition contract with AP Construction, Inc.



MATTERS INVOLVING LITIGATION, PERSONNEL & SPECIAL MATTERS

The subject matter is covered by one or more of the following legal exemptions:

- Matters made confidential by state, federal law or rule by court.
 - Disclosure would result in an unwarranted invasion of individual privacy, unless the person affected consents in writing.
 - Disclosure would impair the body's right to receive federal or state funds.
 - Collective bargaining.
 - Lease or acquisition of property, setting of banking rates, investment of public funds if disclosure would harm the public interest.
 - Investigations into violations of law.
 - Strategies to protect public security.
 - Pending, ongoing or anticipated litigation or contract negotiation, including attorney-client privilege. The threat of litigation must be more than theoretical for this exemption to apply.
 - Personnel matters affecting employees of the public bodies, unless all parties request or consent to a public hearing. Prior to discussion of personnel, affected employees must be given notice, known as a Rice notice, which gives the employee the right to request a public hearing.
 - Proceedings that could result in a suspension, civil penalty, or loss of a license or permit.
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1. PERSONNEL