

RESOLUTION 22-005

PORT OF THE DALLES  
COMMISSION

A RESOLUTION DECLARING AN EMERGENCY AND AN EXEMPTION FROM COMPETITIVE BIDDING FOR CONSULTATION, CONTAINMENT AND CLEANUP ACTIVITIES REGARDING THE DALLES MARINA

WHEREAS, on August 1, 2022 in the early evening, a fire occurred on Finger B of The Dalles Marina (“Marina”).

WHEREAS, The Port of The Dalles owns the Marina.

WHEREAS, the fire burned boathouses and their contents to the waterline.

WHEREAS, the destruction of the boat houses has caused burned construction materials and household materials, including plastics, cleaning products, paint/stains, boat maintenance chemicals, batteries, gasoline, and damaged fuel containers, to fall into the waters of the Marina.

WHEREAS, DEQ has directed that the Port take containment and cleanup action to prevent the spread of the spill to public waters, groundwater or soils beyond the original spill site.

WHEREAS, OAR 340-142-0030 requires that the “person owning or having control over the oil or hazardous material” must “undertake every reasonable method to stop the spill and contain the oil or hazardous materials,” “arrange for properly trained and equipped personnel or contractor to stop any continuing release and manage the specific material spilled,” and “must clean up the spill or release, and take steps to mitigate any threatened spill or release of oil or hazardous materials.”

WHEREAS, The Port of The Dalles retained Advanced Underwater Systems to provide the initial consultation, containment and its ongoing measures as may be needed.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

Section 1. The Port of The Dalles approves and adopts the attached Findings in Support of this Resolution.

Section 2. The Port of The Dalles hereby declares that emergency circumstances exist that require prompt execution of a public contract for emergency consulting, containment and cleanup, salvage, and disposal work for the cleanup of the Marina. The fire has caused an emergency condition that may result in the release of petroleum products and other hazardous materials into the waters of the Marina (the “Release”). The presence of these substances require an immediate response, containment and cleanup action by the Port of The Dalles.

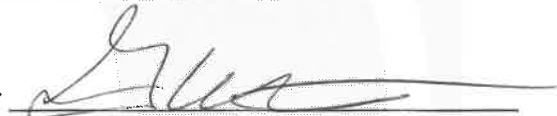
Section 3. The Port of The Dalles finds that it may enter into public contracts for the consultant and contractor without competitive bidding because it has been ordered to contain and clean up oil or hazardous waste pursuant to the authority granted the DEQ and this order necessitates the prompt establishment and performance of the contracts in order to comply with the statues regarding containment and cleanup of spill or release of oil or hazardous materials.

Section 4. The emergency caused by the fire and Release requires the Port of The Dalles to immediately procure the services of a qualified contractor to perform the services of consultation, containment, cleanup, salvaging and disposal of the potential sources of the Release. The Port of The Dalles has selected per the Findings adopted hereby, the contractor, Advanced Underwater Systems as the contractor who is deemed best able to timely start and complete the required emergency work in an economical manner. The Port of The Dalles will negotiate directly with the selected contractor on the terms of the contract.

PASSED AND APPROVED BY THE PORT COMMISSION THIS THIRD DAY OF AUGUST, 2022

PORT OF THE DALLES

By



Greg Weast, President  
Board of Commissioners

ATTEST:

By



David A. Griffith, Secretary  
Board of Commissioners

PORT OF THE DALLES COMMISSION  
SPECIAL MEETING (August 3, 2022)  
FINDINGS IN SUPPORT OF RESOLUTION NO. 22-005

(A)

Emergency Exemption from Competitive Bidding for Consultation, Containment and Cleanup in the Marina

(B)

Oil and Hazardous Materials Removal Exemption for Consultation, Containment and Cleanup in the Marina

1. General

ORS 279A.010 defines “emergency” as “circumstances that: (A) Could not have been reasonably foreseen; (B) Create a substantial risk of loss, damage or interruption of services or a substantial threat to property, public health, welfare or safety; and (C) Require prompt execution of a contract to remedy the condition.”

ORS 279C.320 permits entering into contracts for emergency work in accordance with ORS 279B.080.

ORS 279B.080 permits Executive Director to make emergency procurements of services in an emergency.

The Port’s Local Contract Board Rules established exceptions from competitive bidding, including:

Oil or Hazardous Material Removal. In situations where the Port is required by contract or by law, or when ordered by a court of governmental agency, to cleanup oil or hazardous waste, and the circumstances necessitate the prompt establishment and performance of the contract.

The Port’s Local Contract Review Board rules provide in part:

Emergency Contracts. The Port of The Dalles may award public contracts without formal competitive bidding if the emergency conditions require prompt execution of the public contract in accordance with ORS 279B.080..... the Port of The Dalles may by resolution at a regular, special or emergency board meeting, declare the existence of any emergency that requires prompt execution of the contract.

The Port's Local Contract Review Board rules allow the Executive Director to declare the emergency for entering into contracts of initially \$50,000.00 or less and the Port Commission to declare the emergency by Resolutions for contracts over \$50,000.00.

Port's Local Contract Review Board rules also provide

#### Emergency Procurements

The Port Manager or the Port Manager's authorized designee may award a Public Contract as an Emergency Procurement, in an amount not to exceed \$100,000, using a procurement method that is practicable under the circumstances.

Port's Local Contract Review Board rules also provide:

(j) Oil or Hazardous Material Removal. The Port may enter into public contracts without competitive bidding when ordered to cleanup oil or hazardous waste pursuant to the authority granted the Department of Environmental Quality (DEQ)...and necessitating the prompt establishment and performance of the contract in order to comply with the statutes regarding spill or release of oil or hazardous materials.

#### 2. The Fire and resulting damage prompting emergency action:

On August 1, 2022 in the early evening, a fire occurred on Finger B of the Port's Marina.

The fire burned boat houses and their contents to the waterline. The destruction of the boat houses has caused burned construction materials and household materials including plastics, cleaning products, paint/stains, boat maintenance chemicals, batteries, gasoline, and damaged fuel containers, to fall into the waters of the Marina.

The Port has received Oregon DEQ communication to contain, and remediate this environmental disaster.

The Port retained Advanced Underwater Systems to provide the initial consultation and containment. The Port worked with Advanced Underwater Systems in remediating the effects of the fire in the Marina on July 3, 2021 and knows its work to be excellent, its staff highly qualified and dedicated and its costs reasonable and competitive with any other available options. Costs are anticipated to be saved by acting quickly to get Advanced Underwater Systems into the water and disaster site at/in the Marina and helping the Port meet its statutory and legal obligations in these circumstances. Any delay in doing so would actually be costly and problematic. The Port administration has first hand knowledge of how to handle the issues caused by this fire with the help of a first class consultant and contractor like Advanced Underwater Systems (and aware and knowledgeable of other "such contractors" in the field) all based on first hand experience and knowledge emanating from last year's July Marina fire and its aftermath. Burnt construction

materials from the boat houses and their pre-fire contents continue to be in the waters of the Marina and on the floor of the Marina.

3. The Emergency:

The Port hereby declares that emergency circumstances exist that require prompt execution of a public contract for emergency consulting, containment and cleanup, salvage and disposal work. The fire has caused an emergency condition that resulted in the release of petroleum products and other materials into the waters of the Marina (the "Release"). The continued presence of these substances requires an immediate response and cleanup action by the Port.

The emergency caused by the fire requires the Port to immediately procure the services of a qualified consultant to act as the Port's representative in evaluating the containment and scope of cleanup, salvaging and disposal of potential sources of the Release.

The emergency caused by the fire requires the Port to immediately procure the services of a qualified consultant and contractor to perform the containment, cleanup, salvaging and disposal of the potential sources of the Release. Advanced Underwater Systems is able to immediately work on this contract and saves the Port substantial ongoing costs.

Immediately contracting with the proposed consultant and contractor are imperative to prevent any further releases, to quickly cleanup the Marina, to protect nearby recreational locations and activities, to protect public health, to end as quickly as possible the substantial daily costs of containment, to preserve the Port's limited financial resources.

The Oil Spill and Hazardous Material Cleanup:

The Port finds that it may enter into public contracts for the consultant and contractor without competitive bidding because it has been ordered to clean up oil or hazardous waste by the DEQ necessitating the prompt establishment and performance of the contracts in order to comply with the statutes regarding spill or release of oil or hazardous materials.