

**Lorain Port Authority**  
**CONTRACT MANAGEMENT COMMITTEE MEETING**  
**Tuesday, February 11, 2020 at 6:00 p.m.**  
**Port Offices**

**Committee:** Messrs. Kuszniir, Nielsen (6:18 p.m.), Sommers, Zellers and Zgonc

**Board Members:** Mr. Mullins (6:04), Mr. Bansek and Mrs. Cook (6:52 p.m.)

**Staff:** Tom Brown, Executive Director  
Tiffany McClelland, Economic Development Director  
Yvonne Smith, Accountant  
Kelsey Leyva, Office Manager  
Mike Brosky, Esq. (6:52 p.m.)  
Lil, Goose Dog

**Guests:** None.

**I. Roll Call**

- A. The committee meeting was called to order at 6:00 p.m. by Chairman Jeff Zellers. Roll call indicated a quorum present.

**II. Disposition of Meeting Minutes**

- A. May 14, 2019, Contract Management Committee Meeting: Without question, Mr. Sommers moved to approve the minutes. Second by Mr. Zgonc. Motion carried.

**III. Report of Chairman**

- A. Kelley's Island Ferry Boat Line Construction Contract: Ms. McClelland said she's been working on the construction contract the last year or more just to get to the point of signing. Thoma-Sea Marine Constructors submitted the lowest and best bid to us last year in July. We then entered contract negotiations between the shipyard, ourselves, ODOT and Federal Highways. She said there are a lot of moving pieces with this project. ODOT has signed off on the document as is and the shipyard is ready to sign. Kelley's Island has also given their approval. Mr. Mike Brosky has been intimately involved in the process. Ms. McClelland said she is now asking for our board's approval. If approved tonight, then we finish up putting escrow money into an account tomorrow. Encumbered money at

the federal level will be allocated in the next 48-hours and they should be able to start construction by the end of the week. Ms. McClelland then opened the floor to questions. Mr. Zellers asked about the different contracts involved. Ms. McClelland said part of the construction contract includes three addendums, including the request for bid, the technical specifications from the engineering firm and the proposed bid submitted by the shipyard. All of that makes up the construction agreement between Port and Thoma-Sea Marine. Mr. Zellers asked who we have contracts with? Ms. McClelland said we have two other contracts in place related to this project and this is the fourth. The first is with Kelley's Island. The second is with ODOT to administer the federal funds. The third agreement was with TAI Technology and Associates Inc. They are the marine engineering firm that put together the technical specifications before we went out to bid. They will also do a technical review during the build process. They'll be intimately involved through the year-long build process and will be the engineer on site with us. Mr. Zellers asked about how the money flows? Ms. McClelland said there are two pots of money. One pot is federal funds from Federal Highways and is in ODOT's hands. The second pot of money is going into an escrow, which is the local match. The total is a little over \$7 million. Of that, \$4.72 million in federal dollars is held by ODOT and being pulled down by Mrs. Smith. The second pot is an escrow account that Mrs. Smith will have access to in order to make payments. The payments go by the milestones that are outlined in the contract and it's an 80/20 split. Ms. McClelland said the first payment is from the escrow account, which is the local money. Mr. Zellers asked where the money for the escrow account was currently? Ms. McClelland said it's in a bank waiting to be put into the escrow. Mr. Zellers asked if we paid the ship builders directly? Ms. McClelland said any money that comes out of the escrow, Mrs. Smith will have access to draw down and make a payment directly to the shipyard. Any money from the federal government, Mrs. Smith will submit a request to ODOT and ODOT will pay

the shipyard directly. Mr. Zgonc confirmed we would submit the 5 percent deposit. Ms. McClelland said based on the milestone payments, the first is 5 percent to the shipyard and a 5 percent payment to the Port for our services. Mrs. Smith said a portal is set up and ODOT will provide a form to fill out. Everything will be on one page describing what's federal and what's from escrow, and once it's approved ODOT will pay their portion and we pay the other portion from the escrow account. Mr. Zgonc asked if we're submitting a 5 percent deposit? Ms. McClelland said the Port isn't paying for anything. Every dollar for the project will come from the Federal Highway dollars and the local match by Kelley's Island. The escrow account is all Kelley's Island's money. Mr. Zellers said as he read it, he understands we, the Port Authority, are obligated to pay the contract value. He asked what happens if money is held up or Kelley's Island doesn't pay? Ms. McClelland said the agreement is between the Port and the shipyard, but that's why there's an escrow account being setup. Once the money is in the account, Kelley's Island no longer has access to it. Mr. Zellers asked how much was in escrow? Ms. McClelland said more than \$3 million is in escrow. Kelley's Island can't touch that money until the project is complete. Mrs. Smith is the only one with access to it. Mr. Zellers said there isn't language in the contract about the money not coming from the Port. He is concerned the Port could be held responsible to pay for the project. Ms. McClelland said there is a separate agreement with Kelley's Island protecting us. It says that Kelley's Island is obligated to pay anything beyond the federal dollars. Mr. Zellers wants to know what happens if the money doesn't come. Mr. Brown said the federal government allocated the \$4.72 million. Mr. Zellers asked about the other \$3 million? Ms. McClelland said the escrow account will have the entire match before the contract is executed. Mr. Zellers said he is still concerned the contract doesn't mention the payments being contingent on if we get the money, and in a timely manner. Mr. Brown said he's not sure we can do that. We never touch the federal funds. We're the submit a

request and they directly pay. Mr. Zellers said this contract doesn't say that. Mr. Brown said that's why there are several contracts. Mrs. Smith said we'll get an invoice, we'll send ODOT a document to approve explaining the split and then they pay their portion directly and we pay the escrow part. Mr. Zellers said he doesn't doubt the payment structure of it works out. But what if it doesn't? He suggested adding language explaining payments are contingent on money being in the escrow account. Ms. McClelland said Mr. Mike Brosky would have to be the one to add any language. Mr. Brown said this federal grant is the same as the city getting a fire truck. You submit a request for payment. The only difference is this is staggered payments instead of one payment. The federal dollars were originally allocated in 2008. Mrs. Smith said this set up is just like the pier project. The first payment takes a little while, but after that it's a quick turnaround. It's like a bank account. Mr. Zellers said he just wants language included in the contract that says payments are contingent on the Port getting the dollars. He understands how the money flows. Ms. McClelland said she would talk to Mr. Brosky. Mr. Zellers asked what happens if Thoma-Sea defaults or goes out of business? A bond is mentioned, but what else? Ms. McClelland said they submitted a bid bond and a performance bond. Those are our fallbacks. Mr. Zellers said normally there is additional language about performance bonds. Ms. McClelland said that's another question for Mr. Brosky. Mr. Zellers said there are a lot of federal requirements – who is approving all of that? Ms. McClelland said we'll work with the consultant on those. The 20-pages of requirements is non-negotiable and has to be included. Along the way for the reporting and payments, we have to guarantee certain standards must be met before we can pay. Mr. Sommers confirmed the marine engineer would be helping us. Ms. McClelland said yes, and we would be submitting the reports. Mr. Zellers said in his line of work he has a whole department for that. Mr. Brown said that would also be Thoma-Sea's responsibility. Mr. Zellers said we have to approve it, though. We have to

follow up. How much is the consultant going to engage in that? Ms. McClelland said the paperwork aspect would be on the staff. The consultant would answer the industry specific questions. Mrs. Smith said Ms. McClelland will also travel to see the vessel and speak with the builders. Mr. Zellers said the warranty section is all over the board. Do we know what the manufacturer warranty is on the parts? And what about the 5-year extended warranty for the engine and gears? Mr. Bansek said based on his experience, there are third parties involved, and he is confident they are aware of the warranties and products they're using. Ms. McClelland said one example is the propulsion units, the third party is guaranteeing their manufacturing warranty. And there is an additional warranty overall for the build of the boat from delivery date as well through Thoma-Sea. Mr. Zellers asked is this is the price from the ship builder? Ms. McClelland said yes, this is the fixed build price. Mr. Zellers asked if this would be the final contract? Ms. McClelland said we signed a preliminary pre-construction agreement with TAI, and we'll need another one for TAI to offer their construction assistance services. The other contracts we've had in place for about a year. Mr. Zgonc asked what the current contract with TAI is for? Ms. McClelland said it's about \$134,000 contract for them to create the scope of work for the bid because we needed technical specifications. We had an additional \$24,000 contract with TAI to build out the estimate for the vessel. We still need an additional contract for the year of engineering oversight for the build of the vessel. Mr. Zgonc mentioned Article 55 and asked that the committee review it when it happens. Three months after construction begins and every July thereafter, if there is that length of time on the project. Mr. Zgonc asked what the contract with TAI will cost? Ms. McClelland said it will cost \$175,000 and Kelley's Island pays for everything. Mr. Zellers asked if Kelley's Island has made all of the payments to date. Ms. McClelland said yes. Everything flows though us and Kelley's Island is not allowed to directly contract with anyone. Mr. Zgonc asked about the duration of the

project. Mr. Brown said one year. Ms. McClelland said worst case scenario is just over a year. Mr. Zellers is looking forward to hearing from Mr. Brosky. Mr. Mullins asked for clarification. Mr. Zellers wants to know how this agreement ties into the other agreements in place, and to add additional language about the money flow. Mr. Brown said each agreement tackles a different item and the current contract is for the build of the vessel. We're just the conduit. Ms. McClelland said the agreement with ODOT is included as an exhibit attachment. Mr. Nielsen asked who wrote the contract. Ms. McClelland said Mr. Brosky. All other entities involved approved it. Mr. Brown said Ms. McClelland has worked 100s of hours on this project. Ms. McClelland said Mr. Brosky wrote the contract alongside TAI for the technical expertise. They also signed off on the contract, too. Mr. Brown suggested moving on with the agenda and then coming back if Mr. Brosky comes. At 6:52 p.m. Mr. Brosky arrived, and Mr. Zellers expressed his concern about our obligation to pay the \$7.7 million. He asked about including language to mention the different entities providing the funding. Mr. Brosky said the match has to be in before we sign the contract. Mr. Zellers said he doesn't want to obligate the port to monies not fulfilled. Mr. Brosky said he could add a clause. Ms. McClelland asked Mr. Brosky if he thought the change would require approval by the shipyard and ODOT? He said he didn't think ODOT would need to reapprove it. Mr. Mullins asked about representing the contract to all entities, how long that would take and if it could affect the project timeline? Ms. McClelland said in theory she would send it out as soon as tomorrow, but there could be a delay. Mr. Zellers asked how familiar the shipyard was with this type of project. Ms. McClelland said Thoma-Sea is very clear with the setup of a federal-build project. She's less worried about the shipyard and is more worried about ODOT. Mr. Zellers asked about the performance bond and insurance requirements. Mr. Brown asked if the other agreements cover us? Mr. Brosky said Thoma-Sea is not a party to either of those other contracts. We have protection with

Kelley's Island and ODOT, but not as much with the builder. Mr. Zellers is looking for 100% security. Mr. Mullins asked how long it could take? Ms. McClelland said any changes might add a week. It just depends. Mr. Zgonc asked if the shipyard is expecting the contract? Ms. McClelland said they know it's being presented, so they hoped it would pass for escrow to start tomorrow and be ready to go by Friday. Mr. Brosky said he could add the language on Thursday. Mr. Zellers said he wants an insurance section, too, and what we're looking for with the bond. Mr. Brosky said the bond information is attached in Exhibit C. We would be covered if they go out of business. At the very minimum, Mr. Zellers wants language added about the funding and the insurance. Mr. Sommers moved to recommend the contract to the full board with the recommended changes/additions by Mr. Brosky. Mr. Zellers seconded. Roll call vote as follows: Mr. Kuznir nay, Mr. Nielsen nay, Mr. Sommers aye, Mr. Zellers aye, Mr. Zgonc nay. Motion failed. Mr. Kuznir moved to send the contract to the full board as to form. Mr. Zgonc seconded. Roll call vote as follows: Mr. Kuznir aye, Mr. Nielsen aye, Mr. Sommers nay, Mr. Zellers nay, Mr. Zgonc aye. Motion carried.

- B. AAble Rents 2020 Stage Top Installation, Removal and Storage: Mr. Brown said we've used AAble Rents for years now to install, remove and store the stage top. We are getting the shell top repaired to get a few additional years out of it. All total, the three contracts exceed the \$10,000 threshold. Mr. Zellers asked if we've always used them? Mr. Brown said no, it used to be Parties to Go, but they didn't have the equipment and no longer wanted to do it. AAble Rents has done the job the last three years and we're happy. Mr. Zellers asked about the possibility of a multi-year deal? Mr. Brown said the tough part is the industry changes and they weren't willing to submit a multi-year contract. Mr. Zellers asked how the price compared to last year and Mr. Brown said it was very close. When we used Parties to Go in the past, we would have to contract with other companies to install the railing. AAble Rents does it all, and they retention**

it. Ms. Leyva said they're also very responsive. The increase in price compared to last year is \$1,720. She explained AAble Rents included additional workers for the install. Last year, they only planned for six workers and they ended up needing nine. Other changes include slight increases in labor and fuel costs. Mr. Zellers asked if Mr. Brown can talk to AAble Rents about a set price. Mr. Brown said he would ask. Mr. Zgonc moved to recommend to the full board the approval of the stage top proposals. Mr. Kuszniir seconded. Motion carried. Mr. Brown said he'll report back any updates and request a motion if needed.

- C. Murray Ridge Production Center 2020 Litter Control Contract: Mr. Brown said this is another contract annual contract that teeters on the \$10,000 threshold. When we program in extra hours, the contract exceeds \$10,000. This year we're in a learning phase with Oasis Marinas at Port Lorain. He anticipates the contract potentially being reduced but we're learning with Oasis this year and we want to have the flexibility to keep a pulse on it. What we can do if Oasis is picking up and we don't need cleanup as much on the pier, we can reprogram them to this site. We want them to have a greater presence by the stage. Mr. Bob Earley's crew clean late after concerts, so we have Murray Ridge coming on Mondays to ensure the area is clean. Mr. Sommers moved to recommend to the full board the approval of the contract. Second by Mr. Zgonc. Motion carried.
- D. 2020 Shuttle Boat Captain Agreement: Mr. Brown said Ms. Leyva is taking the lead on this project. We learned last year without Mr. Scott Ross as a lead captain, scheduling was hit and miss. We're simplifying things this year and all scheduling will go through Ms. Leyva. We are eliminating the "lead captain" position. We compete with Cleveland Metro Parks and other shuttle boat operations that pay captains \$25-30 per hour. Instead of the lead captain making \$22 and regular captains making \$20 per hour, we are requesting everyone receive the \$22 rate. We hope to take away some of the confusion surrounding scheduling. Mr. Brown said it is a modest increase. He said it's a little under the market, but our captains



don't punch a time clock and we include the time it takes to clean, prep, and put away the boat. We also have a 4-hour minimum shift policy. Mr. Zellers asked for clarification about the increase. Mr. Brown explained it would be a \$2 increase for all non-lead captains. Mr. Zgonc confirmed those were the only changes from last year. Mr. Brown said yes. Mr. Kuszniir moved to recommend to the full board the approval of the contract. Second by Mr. Sommers. Motion carried.

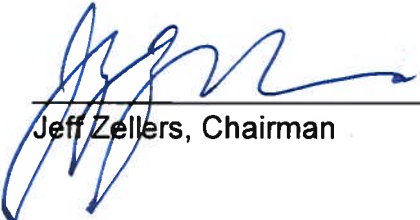
- E. 2020 Lighthouse Tours Agreement: Mr. Brown said this is 99% the same contract as the last two years. They will not have a trailer at Oasis Marinas at Port Lorain this year. Oasis is offering them a space and is working with the Lighthouse Foundation directly. Mr. Brown explained the main difference is the time limit for private events. In the past, we charge a certain amount for 2 hours and then additional fees per additional half hour. The foundation has asked us to increase the base time to 3 hours to allow them greater flexibility. They struggle with trying to offer a price break to some groups and then end up losing money. Ms. Leyva said she looked into the affect increasing the time limit would have on us financially and it was minimal. She clarified the amount is contingent on how many trips run. Mr. Brown said if we run more Private Lighthouse Tours, we generate more revenue. He thinks this is a no brainer. Mr. Bansek agreed it's a no brainer. Mr. Zgonc moved to recommend approval to the full board. Second by Mr. Kuszniir. Motion carried.

#### IV. Other Business

- A. None.

#### V. Adjournment

- A. There being no further business to come before the Contract Management Committee, Mr. Kuszniir moved to adjourn. Second by Mr. Sommers. The motion carried, and the meeting adjourned at 7:06 p.m.



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Jeff Zellers, Chairman



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Tom Brown, Executive Director