



Agenda Item No. 2

To: Building and Operating Committee/Committee of the Whole
Meeting of March 26, 2009

From: James P. Swindler, Deputy General Manager, Ferry Division
Celia G. Kupersmith, General Manager

Subject: **APPROVE ACTIONS RELATIVE TO THE AWARD OF CONTRACT NO. 2009-FT-11, INTERIOR AND EXTERIOR MODIFICATIONS TO THE M.V. SNOHOMISH, TO DAKOTA CREEK INDUSTRIES, AS A SOLE SOURCE**

Recommendation

The Building and Operating Committee recommends that the Board of Directors approve the following actions relative to the award of Contract No. 2009-FT-11, *Interior and Exterior Modifications to the M.V. Snohomish*:

1. Approve a finding of public interest to waive competitive bidding procedures and authorize the award of a sole source contract to Dakota Creek Industries, Inc.(DCI) of Anacortes, Washington in the amount of \$141,291, for Phase One refurbishment work of the *M.V. Snohomish*, in light of DCI's original responsibility for the manufacture of the *M.V. Snohomish* and unique capacity to execute the work within the timeframe and in the manner required by the District; and,
2. Establish a contingency fund in the amount of \$50,000 to cover taxes and unanticipated work,

with the understanding that requisite funds are available in the FY 08/09 Ferry Transit Division Capital Budget.

Summary

The *M.V. Del Norte's* existing engines have passed the end of their useful life and have experienced several recent failures. The *M.V. Del Norte* is scheduled for a repower with new EPA Tier II engines, and will be taken out of service later this year to perform this work. This work will likely not be undertaken until June 2009 at the earliest.

In the meantime, however, recent mechanical failures of the *M.V. Del Norte* due to the age of the engines have resulted in service disruptions, the diversion of District staff time and resources, and the expenditure of approximately \$50,000 on short-term repair work. This has led District management to conclude that it would be prudent to take the *M.V. Del Norte* out of service as

soon as practicable. The usual contingency plan when a high speed vessel is taken out of service is to substitute two Spaulding vessels, at significant additional cost, reduced service quality, and substantial loss in ridership. With the recent purchase of two ferries from Washington State, the District has a far better alternative available. The District has the opportunity to put the *M.V. Snohomish*, sister ship to the *M.V. Del Norte*, into temporary service, if it can move quickly to drydock and make some key preliminary modifications to the vessel.

These preliminary modifications (“Phase One”) are only those that are minimally necessary to make the *M.V. Snohomish* fit for service, compatible with the District’s loading system, and compliant with ADA and other U.S. Coast Guard (USCG) requirements. They do not include the substantial refurbishment and repower work that the *M.V. Snohomish* will undergo at a later date as Phase Two. The Phase One modifications consist of the following:

- Dry dock the vessel to facilitate any required U.S. Coast Guard inspections;
- Fabricate and install upper deck Port side gangway support brow structure and forward Port side upper deck loading door structure in order to make the vessel compatible with District terminal loading structures;
- Purchase, fabricate and install new joiner work and other outfitting necessary to create a temporary upper deck ADA head;
- Repair and replace deck coverings, and remove the upper deck interior, that are in the way of the loading door and ADA head work;
- Create temporary snack bar on upper deck;
- Repair vessel coatings to a level that is suitable for service, notably, underwater antifouling and all deck non-skid paint;
- Provide and install signage required by the U.S. Coast Guard Certificate of Inspection for the new vessel loading arrangement and for an expanded passenger capacity of 390 passengers.

Staff proposes to award a sole source contract for the Phase One work to Dakota Creek Industries, the original vessel manufacturer of the *M.V. Snohomish*. DCI has submitted a proposal to perform the Phase One work in the total amount of \$141,291. District staff and the District’s consultant have performed a price analysis of the proposal and find the price to be fair and reasonable. It is consistent with both industry standards and with the price the District has recently paid for similar ship repair work. Because the vessel is already in Washington State, where DCI is located, further cost efficiencies will be realized because the vessel can be transferred to DCI’s facilities directly upon the Board’s approval of the award.

Several reasons support award of a sole source contract under applicable federal and state procurement requirements:

First, under federal guidelines, a recipient of federal funds may limit the number of sources it solicits bids from when there is an unusual and urgent need for the services, and the recipient would be seriously injured unless it were permitted to limit the solicitation. The *M.V. Snohomish* is necessary to replace the *M.V. Del Norte*, which must be taken out of service. Without the *M.V. Snohomish* in working condition, the District’s ferry service quality could be seriously

compromised, as evidenced by recent disruptions in operations caused by engine failures of the *M.V. Del Norte*.

Second, FTA recognizes that a sole source approach is acceptable in cases where there is a need for a follow-on contract for the continued development of highly specialized equipment, and it is likely that award to another contractor would result in unacceptable delays. Any other contractor besides the original vessel manufacturer will require detailed plans and specifications for the refurbishment, which would take additional time to develop, as well as additional time for the solicitation process itself. As discussed above, delay in performing this work may cause injury to the District and is unacceptable.

Third, FTA permits a sole source if necessary to avoid substantial duplication costs. DCI is uniquely placed to perform the needed work. As the original builder of both the *M.V. Snohomish* and the *M.V. Del Norte*, Dakota Creek is not only familiar with the vessels, but has all the engineering drawings and design specifications necessary to modify the *M.V. Snohomish* so it matches the *M.V. Del Norte* and works with the District's loading structures. Any other shipyard would need to replicate the work product that DCI already has. This work product could only be produced at substantial and unnecessary costs.

Finally, state law permits an exception from competitive bidding when to do so would be unavailing and not in the public agency's best interests. Because of the availability and unique capability of DCI to perform the work, and the lack of any other similarly situated firm that could undertake the work in the manner required by the District, the competitive bidding process would serve no useful purpose.

For the Phase One refurbishment, staff proposes a \$50,000 contingency to cover unanticipated costs. This is a larger contingency than usual, given that the District only recently purchased the vessel and has no operational history of the vessel.

Fiscal Impact

Phase One refurbishment work is budgeted at \$191,291, including the contingency. This amount is included in the total project cost of \$11,610,000 in the FY 08/09 Ferry Transit Division Capital Budget (which includes purchase of the vessel and all subsequent refurbishment work, including professional services, materials and furnishings, and the shipyard construction work). The total project will be funded with \$8,693,990 Federal Transit Administration grant funds (75%), \$946,010 State I-Bond funds (8%), and \$1,970,000 District funds (17%).