

**Washington State Major League Baseball Stadium  
Public Facilities district  
Staff Report**

**Agenda Item Number: 5**

**Date: January 3, 2000**

**PROPOSED RESOLUTION 00-002**

A Resolution of the Board of Directors of the Washington State Major League Baseball Stadium Public Facilities District (PFD) ratifying and approving the execution of a Settlement Agreement and Mutual Release for the close-out of the Hunt-Kiewit Joint Venture (H-K) GC/CM contract.

**PURPOSE:**

This Resolution authorizes the PFD Board Chair to accept the terms and conditions of a mutually acceptable Settlement Agreement and Mutual release with Hunt-Kiewit Joint Venture, with the review and written concurrence of the Baseball Club of Seattle, L.P.

**BACKGROUND:**

On July 29, 1996, the PFD entered into an agreement with H-K to serve as the General Contractor/Construction Manager (GC/CM) on the Ballpark project. That agreement was amended with Mariners concurrence on July 21, 1997, in what became known as Mod 1, or the First Modification to the Standard Agreement. As part of Mod 1, a total construction budget of \$239.39 million was established. Concurrent with the adoption of this construction budget, the Board adopted a total project budget of \$417.4 million.

On July 20, 1998, again with Mariners concurrence, the Board responded to increased construction costs and authorized a new budget of \$498.35 million.

As the project neared completion in the second quarter of 1999, and with the remaining project costs clarified, the Board on April 5, 1999 approved a final project budget of \$517.62 million, with the approval and concurrence of the Seattle Mariners Baseball Club.

Parallel with the completion of the work, the PFD, H-K, and the Mariners have worked to reduce the risk to the contract by negotiating and closing out subcontracts awarded by Hunt-Kiewit. These efforts have resulted in Change Orders that have previously been presented to the Board for approval. Upon the completion of the ballpark, there remained issues of entitlement, extra costs, and extra scope with approximately (44) subcontractors, and with Hunt-Kiewit. At the Mariners' request, the PFD allowed the Ballclub to take the lead in the negotiations and attempts to individually resolve those issues, and bring closure to the contracts. Those efforts have been unsuccessful.

H-K subsequently stepped forward with the offer for a global contract settlement of all entitlement issues, extra costs, and claims, in the amount of \$350.8 million. That proposal was presented to the Mariners in August of 1999, and countered. Through several weeks of negotiations between the Mariners and Hunt-Kiewit and the PFD, the terms and conditions of a Settlement Agreement, and Mutual Release have been established, for a final contract amount of \$350.0 million. It is this agreement that the Board is asked to ratify and approve by this action.

**POLICY ISSUES:**

There are three policy issues that the Board should consider in its deliberation of this Closeout Proposal, summarized briefly as follows:

- Hunt-Kiewit has until January 7, 2000, to confirm that their subcontractors will abide by the agreement, or that Hunt-Kiewit will indemnify the PFD and the Mariners against claims by any and all subcontractors that have been incorporated into the agreement.
- Though the total cost is greater than the line item budget for this work, funds are available within the total approved project budget. Of the seven budget categories, the construction budget is higher than previously approved, but can be offset by savings in other categories where costs are lower. The ability to offset costs in one budget category by savings from another, for purposes of this agreement, will not be contested by the Mariners.
- Approval of this Project Closeout Agreement for Hunt-Kiewit Joint Venture is considered to be the least costly alternative for bringing closure to the contracts for the construction of the ballpark.

**COST IMPACTS:**

This project Closeout Agreement for a total contract amount of \$350.0 million is consistent with the total project budget approved by the Board on April 5, 1999 in the amount of \$517.62 million. While the amount allocated for Budget Category 3 is greater than that approved by the Board, other budget categories are projected to be less, offsetting the increase.