

## MEMORANDUM

September 8, 2017

**TO:** MEMBERS, PORT COMMISSION  
Hon. Willie Adams, President  
Hon. Kimberly Brandon, Vice President  
Hon. Leslie Katz  
Hon. Doreen Woo Ho

**FROM:** Elaine Forbes  
Executive Director

**SUBJECT:** Request for authorization to Modify Construction Contract No. 2784, Pier 23 Roof Repair Project, to increase the Contract Scope and Amount and Extend the Substantial Completion Date

**DIRECTOR'S RECOMMENDATION:** Approve the Attached Resolution

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### **Executive Summary:**

At its meetings on February 28, 2017 and March 28, 2017, the Port Commission authorized staff to award construction Contract No. 2784, Pier 23 Roof Repair Project ("Project"), to Pioneer Construction, Inc. ("Pioneer"), the lowest responsive, responsible bidder, in the amount of \$2,290,400, and authorized a contract contingency amount of \$229,040 (10% of \$2,290,400) for unanticipated contingencies, for a total authorization not to exceed \$2,519,440. (Port Commission Resolution 17-11 and Amended Resolution 17-11)

The current Project scope includes removal and replacement of existing roofing materials and flashing, hazardous material abatement, and restoration of historic rooftop monitor windows at Pier 23. The pier is located in the Northern Waterfront, and is a contributor to the Embarcadero Historic District.

In response to the Port's need to lease the collective area of Piers 19, 19½ and 23, Port staff request authorization to modify the construction contract to increase the scope to include roof repairs to Pier 19½. Pier 19½ is a connector building constructed in 1961 and is located between Piers 19 and 23. (See Exhibit "A" for Area of Work Location Map). Staff is requesting a Change Order to increase the existing contract by \$788,106, plus authorization of a 10% contingency of the Change Order amount; plus authorization to extend the contract duration by 76 days.

The cost and time required to execute the additional work will exceed the current contract's 10% contingency. San Francisco Administrative Code Section 6.22(h)(1) requires Commission approval for cumulative increases in excess of 10% of the original Contract price or scope. Additionally, Section 6.22(h)(2) requires Commission approval for cumulative increases in excess of 10% of the original Contract duration.

**Strategic Objective:**

This Project supports the Port's Strategic Plan strategies of Renewal, Livability, Sustainability, and Economic Vitality.

Renewal: The Project will repair a Port asset.

Livability: The Project provides further opportunities for local business enterprises (LBE's) and meets mandates for Local Hire in construction projects, promoting living wage jobs.

Sustainability: The Project will use best practices for construction.

Economic Vitality: The Project will contribute to the Port's ability to provide for leasing in the connector building to deepen the Port's revenue base.

**Background:**

Pier 19 and 23 are contributing resources within the San Francisco Embarcadero Historic District listed on the National Register of Historic Places built in 1936 and 1931 respectively. The Pier 19½ connector building was designed and constructed in 1961. The current roof is beyond its useful life and allows water to enter and damage building members. Water damage is a major cause of loss for Pier facilities, and the longer the exposure, the greater the costs for restoration. It is likely that the current roof on Pier 19½ is original to its construction in 1961 because Piers 19 and 23 were last reroofed in the early 1970's, prior to recent reroof projects.

Pier 19½ is currently being used for public parking. Piers 19, 19½ and 23 were used collectively for the America's Cup operations in 2012. Prior to that, the piers were operated and maintained under a master lease that was terminated in 2009. Following termination of the lease, staff inspected the roofs and found them to be in poor condition. The condition of Pier 19 was in the worst condition, and was prioritized and was reroofed in 2011 using Port Revenue Bond Funds. Pier 23 was prioritized next and funded by Port capital funds for repairs in 2015-2016, which is in progress. At the time the Pier 23 roof repair funding request was made, the future of Pier 19½ was unknown due to San Francisco Bay Conservation and Development Commission (BCDC) negotiations related to the previous Waterfront Plan and America's Cup permits.

During the course of construction for the existing Pier 23 roof repair project, Port staff began negotiations with a tenant in need of the collective area encompassing Piers 19, 19½ and 23. Because of the poor condition of the Pier 19½ roof, it is unusable to the

potential tenant. With the development of a new tenant that will require the collective space, priorities have changed, and staff determined that it is beneficial and most efficient to add reroofing of the Pier 19½ connector building with the existing Pier 23 roof contract that is underway. Engineering staff have negotiated a cost of \$788,106, which is fair and reasonable based on current industry conditions. The unit cost is 8.5% lower than the cost per square foot for the current contract. The contract modification allows the Port to realize a savings for construction mobilization.

### **Local Business Enterprise**

Prior to contract award, the City's Contract Monitoring Division ("CMD") established a 10% subcontracting requirement for Local Business Enterprises ("LBE"), including small and micro LBEs for this project. At the time of award, the LBE subcontractor participation for this contract was 22.77% which exceeded the CMD requirement. Pioneer is also a certified LBE prime contractor who is self-performing approximately 46% of the current contract work, resulting in nearly 69% of the work being performed by certified LBE firms.

The adjusted contract amount for the change order work will adjust the contractor's LBE participation. Because the modification cumulatively increases the contract's total value by more than twenty percent (20%) of its original or last CMD approved value, CMD has been notified in accordance with Admin Code 14B.13. The final percentages will be known once negotiations are complete, but it is anticipated that LBE participation will increase as a result of this modification.

### **San Francisco Local Hiring Ordinance**

The Project contract requires contractor compliance with the mandatory participation level of the City's Local Hiring Ordinance. The mandatory participation level currently in effect and applicable for this Project is 30% of all project hours within each trade performed by local residents, with no less than 15% of all project work hours within each trade performed by disadvantaged workers. It is anticipated that the Local Hire rate will increase with the reroofing of Pier 19½.

### **Regulatory Permits**

The proposed roofing repairs to Pier 19½ will consist of a replacement of in-kind materials. Port Planning and Environmental division staff determined that the proposed work qualifies as a "non-project" for purposes of the California Environmental Quality Act (CEQA) and, therefore, not subject to CEQA review. Roofing repairs to Pier 19½ will be in-kind. The scope of work is within the parameters of the Port's existing San Francisco Bay Conservation and Development Commission (BCDC) Permit M1977.017.19. In addition, the Project does not require permits from the U.S. Army Corps of Engineers or Regional Water Quality Control Board, and is not subject to environmental regulations under the federal Migratory Bird Treaty Act (MBTA) as the construction schedule will occur outside of the Western Gull nesting season.

In anticipation of the authorization of the additional scope, a Port Building Permit has been submitted to the Port Building Permit Desk and will be secured prior to commencement of the work.

**Climate Change**

Sea Level Rise is not expected to cause any major issue during the design life of this Project. The design life of this Project is projected to be 30 years.

**Funding**

The construction contract and the change order will be funded as shown below:

Project Scope	Amount
Total Awarded Amount for Pier 23 Roof Repair Project	\$ 2,290,400
10% Construction Contingency	\$ 229,040
Total Current Contract Cost with Contingency	\$ 2,519,440
Change Order for Pier 19 ½ Roof Repairs	\$ 788,106
10% Construction Contingency for Change Order	\$ 78,811
Total Additional Change Order Cost with Contingency	\$ 866,917
Grand Total	\$ 3,386,357

The Pier 23 construction contract, change order and contingencies will be fully funded in the Port Capital CPO 759-03 Roofing Fund.

**Schedule**

The current Project is on schedule with a 210-calendar day duration. The current Project’s substantial completion date is November 14, 2017. The additional scope of work justifies an extension to the contract duration to provide 76 additional days to the contract schedule, which would provide the contractor a total duration of 286 days for substantial completion. The modified substantial completion date will be January 29, 2018. The additional time is comprised of 56 additional calendar days, plus a 10% contingency of 6 days, and because the construction contract will be extended into the rainy season, 14 potential rain days.

**Summary**

A potential tenant requires the collective area encompassing Piers 19, 19½ and 23. Staff negotiated the additional reroofing work for the Pier 19½ connector building with Pioneer, the contractor for the existing Pier 23 roof contract that is underway, for a fair and reasonable cost based on current industry conditions. Port staff recommends that the Port Commission authorize Staff to modify Construction Contract No. 2784, Pier 23 Roof Repair Project, to increase the existing scope of work to include Pier 19½ roof repairs. The additional work requires an increase in the contract amount by \$778,106; and Port staff also seeks authorization for an additional contingency fund of \$78,811

(10% of \$788,106) for future unforeseen conditions, for a total contract increase not to exceed \$866,917. Further, Port staff request Commission authorization to extend the contract duration for an additional 76 days for substantial completion. Pioneer Contractors, Inc. has committed to meet the requirements of the City's Local Hiring Policy for Construction. Port staff also recommends that the Port Commission authorize the Executive Director to accept the work once it is complete.

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Project Architect

For: Rod K. Iwashita  
Chief Harbor Engineer

Exhibits:

- A. Area of Work Location Map

**PORT COMMISSION  
CITY AND COUNTY OF SAN FRANCISCO  
RESOLUTION NO. 17-40**

- WHEREAS, the Port Commission, at its meeting on February 28, 2017, previously authorized the award of Construction Contract No. 2784, Pier 23 Roof Repair Project to Pioneer Construction, Inc. (“Contractor”), and on March 28, 2017 through Amended Resolution No. 17-11, authorized the award in the amount of \$2,290,400; and
- WHEREAS, the Port Commission, through Amended Resolution No. 17-11, authorized a contract contingency fund of \$229,040 (10% of the contract amount) for unanticipated contingencies, for a total authorization not to exceed \$2,519,440; and
- WHEREAS, the current contract scope consists of removal and replacement of the roofing of Pier 23 shed and bulkhead; and
- WHEREAS, during the course of construction, Port staff began negotiations with a tenant in need of the collective area encompassing Piers 19, 19½ and 23, and the condition of the roof at Pier 19 ½ is beyond its useful life making it unusable to the potential tenant; and
- WHEREAS, in response to the potential lease for the collective area encompassing Piers 19, 19½ and 23, Port Staff recommends a modification of Construction Contract 2784, Pier 23 Roof Repair Project, to increase the contract scope, cost and duration to include roof repairs to adjoining Pier 19½; and
- WHEREAS, the scope of the contract modification work involves basic repair and maintenance of Pier 19½, which does not result in any change or intensification of use and is a “non-project” within the meaning of, and not subject to, the California Environmental Quality Act (CEQA);
- WHEREAS, the additional contract work will involve in-kind replacement of roof materials for Piers 19½, and the work has been submitted to San Francisco Bay Conservation and Development Commission (BCDC) for review and approval pursuant to BCDC Permit M1977.019.17, and needs no permit from the Regional Water Quality Control Board or U.S. Army Corps of Engineers, and the Port Building permit will be secured prior to construction; and
- WHEREAS, the additional scope of work justifies an extension to the contract duration to provide 76 additional days to the contract schedule, which would provide the contractor a total duration of 286 days for substantial completion, and
- WHEREAS, Port staff have determined the additional scope of work warrants an increase to the contract amount beyond the previously authorized contingency by an additional \$788,106; and

WHEREAS, Port staff request authorization for an additional 10% contingency of \$78,811, to increase the contract, if necessary for unanticipated conditions, for a total authorized contract increase not exceeding \$866,917; and

WHEREAS, Sections 6.22(h)(1) and 6.22(h)(2) of the City's Administrative Code require Port Commission approval for increases in the contract amount greater than 10% of the original contract amount, and for time extensions greater than 10% of the original contract duration; and;

WHEREAS, Port staff have determined that the negotiated increase in the contract amount and time extension are warranted and reasonable given the current conditions in the construction industry; now, therefore be it

RESOLVED, that the Port Commission hereby authorizes Port staff to execute a contract modification to Contract No. 2784, Pier 23 Roof Repair Project, to increase the current contract scope and amount by \$788,106, and be it further

RESOLVED, that the Port Commission hereby authorizes Port staff to reserve a contingency fund to increase the contract amount further, as necessary for unanticipated conditions, by an additional \$78,811 (10% of \$788,106), through contract modifications or change orders, for a total contract increase not to exceed \$866,917; and be it further,

RESOLVED, that the Port Commission hereby authorizes Port staff to extend the existing substantial completion date by an additional 76 days, and further, the Port Commission hereby ratifies all actions taken by the Port staff in furtherance of such contract modification.

***I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of September 12, 2017.***

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Secretary

**EXHIBIT A**  
**AREA OF WORK LOCATION MAP**



Construction Contract No. 2784 - Pier 23 Roof Repair Project – Contract Modification