

## MEMORANDUM

May 18, 2018

**TO:** MEMBERS, PORT COMMISSION  
Hon. Kimberly Brandon, President  
Hon. Willie Adams, Vice President  
Hon. Gail Gilman  
Hon. Victor Makras  
Hon. Doreen Woo Ho

**FROM:** Elaine Forbes  
Executive Director

**SUBJECT:** Request authorization to execute a final change order modification to Construction Contract No. 2740, Crane Cove Park Surcharge and Site Preparation Project, to increase the contract scope and amount by the sum of \$272,277, and to extend the substantial completion date

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

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### **EXECUTIVE SUMMARY**

Port staff seeks Port Commission authorization to execute a final modification to the construction contract for the Crane Cove Park Surcharge and Site Preparation Project, Contract No. 2740, with Shimmick Construction Company, Inc. ("Shimmick"). This proposed contract modification would increase the contract amount by \$272,277, from \$4,517,517 to \$4,789,793, extend the contract time limit to achieve substantial completion from 182 calendar days to 350 calendar days, and increase the contract time limit to achieve final completion to no more than 60 days beyond the date of Port Commission action on this proposed contract modification. The contract work, including this proposed change order, is substantially complete. During construction, Port staff determined the work was necessary, negotiated the scope and estimated cost for the work, and authorized the work contingent upon Port Commission approval. Port staff has reviewed final documentation for the additional work, negotiated the final amount and time extension in good faith and per the contract requirements for change order work, and now seek Port Commission approval of the final proposed contract modification. Staff believe this proposed change order represents the actual costs of the extra work. The 2008 Parks General Obligation Bond is the source for this proposed contract increase and the amount is both within the approved budget for Crane Cove Park (the Park) and less than the budgeted amount for this Contract.

**THIS PRINT COVERS CALENDAR ITEM NO. 11A**

The original contract amount was \$4,110,100 with a 10% contingency of \$411,000, for a total authorization of up to \$4,521,100. To date, staff have executed three contract change orders for additional work totaling \$407,517, which fall within the contract contingency and within the Director's delegated authority. This proposed fourth and final modification will increase the contract by an additional \$272,277 for a total change order amount of \$679,793 (16.5% of the original contract amount), resulting in a final contract amount of \$4,789,793. Port staff negotiated a price for the change order work and both Port staff and San Francisco Public Works staff, who assisted with construction management of this contract, believe the price is fair and reasonable and recommend approval of this proposed final contract modification. This amount is outside of the contract contingency and Director's delegated authority and therefore requires Port Commission approval. This proposed final contract amount of \$4,789,793 is less than the engineer's estimate of \$5,660,000 and less than the second lowest bid of \$5,127,000 for the original contract exclusive of additional work.

The proposed increase in contract time of 168 days (18 days are within the Director's authority and 150 days require Port Commission approval) is because of additional work due to unforeseen conditions and additional work requested by staff including work to prepare the site for the winter season which became necessary after the failed bid process for construction contract No. 2781, Crane Cove Park Construction Package 2, Park Improvements. This increase in time will not impact the schedule of the final delivery of the Park. The major factor driving Park delivery is the need to complete a successful bid process within budget for the next construction contract, Park Improvements. The Park Improvements construction contract will complete the majority of the Park including shoreline reconstruction and beach, sediment cap, landscaping, hardscape, utilities, historic preservation improvements, and rough grading for the future 19<sup>th</sup> Street. As the Port Commission is aware, after authorization to advertise for the Park Improvements contract (Resolution 17-17), bids came in 38% over engineers estimate and beyond the available budget. Consequently, Port staff rejected all bids and worked with the design team to value engineer specific elements and to reduce the contract scope in hopes to attract more bidders and achieve a successful bid within our budget. This revised Park Improvements contract is currently advertised with bid opening scheduled for mid-June.

### **STRATEGIC OBJECTIVE**

This project supports the goals of the Port's Strategic Plan as follows:

#### **Renewal:**

*By incorporating a major new waterfront park and public access while maintaining the integrity of industrial maritime berthing and ship repair operations; engaging in an adaptive reuse strategy for the historical preservation of maritime assets; and by expanding the Port's necklace of public open spaces to provide a broad array of recreational amenities and activities.*

#### **Livability:**

*By increasing the proportion of funds spent by the Port with LBE and micro-LBEs.*

## **BACKGROUND**

Crane Cove Park is one of the Port's Blue Greenway projects and will be a major new open space in the Union Iron Works National Historic District located at Pier 70. The site was part of an operating shipyard for more than 100 years and will be transformed using multiple construction contracts. An update on the overall status of design and delivery of the Park is included in Attachment A to this staff report, and a site plan for Phase 1 of the Park is included in Attachment B.

The Port Commission authorized staff to advertise the construction Contract No. 2740 at its meeting on May 10, 2016 (Resolution 16-20). Staff advertised the invitation for bids on July, 25, 2016, with an engineer's estimate of \$5,660,000, held a pre-bid meeting and site walk on August 10, 2016, and received bids on August 31, 2016. On September 13, 2016, the Port Commission authorized Port staff to award the contract to Shimmick Construction Company, Inc., the lowest responsive, responsible bidder, in the amount of \$4,110,000, and authorized a contract contingency of 10% of the contract amount (or \$411,000) for unanticipated contingencies, for a total authorization not to exceed \$4,521,000 (Resolution 16-37).

Port staff executed the contract on September 21, 2016, and issued a Notice to Proceed on November 16, 2016. The contract included a time limit of 182 consecutive calendar days to bring the work to substantial completion and an additional 60 calendar days to reach final completion or be subject to liquidated damages.

Construction Contract No. 2740, Crane Cove Park Surcharge and Site Preparation Project (the "Contract"), is the first construction contract of several that will construct Phase 1 of the Park. The purpose of Contract No. 2740 was to prepare the former shipyard site for the Park, roadway, and utility work that will transform this long closed and abandoned shoreline into a destination public open space.

Contract No. 2740 included the following scope:

- Demolition of buildings 671 Illinois Street & 699 Illinois Street;
- Site cleanup and demolition of miscellaneous site structures including concrete slips and pads;
- Utility shutoff and decommissioning;
- Importing fill and constructing the permanent embankment for the future 19<sup>th</sup> Street and Slipway Plaza, including installation of vertical wick drains and importing and placing additional soil (surcharge) to pre-consolidate and strengthen the underlying Bay Mud and weak fill soils;
- Dismantling and storing Crane 14 & Crane 30 onsite for future restoration;
- Constructing new earthquake safe foundations for Crane's 14 & 30, and moving and securing the crane gantry towers onto the new foundations.

The Port hired San Francisco Public Works (SFPW) to provide construction management services for the contract. SFPW staff served as inspectors, the resident engineer, and the construction manager, working under the direction of Port staff.



Because this was the site of a former shipyard for over 100 years and much of the contract work included demolition and subsurface work, a high amount of additional work due to unforeseen conditions was not unexpected. The project team, including the Contractor, did a good job of managing additional work due to unforeseen conditions thereby limiting the overall cost and time impacts. Examples include resequencing activities to avoiding costly stand by time of expensive drilling equipment, cooperatively brainstorming and evaluating options, quickly agreeing on scope and approach, and pro-actively managing the entire change process to avoid loss of productivity.

*Port Requests:* Port requests for additional work account for 4% of change orders from the original contract amount and include:

- addition of a site trailer for the construction management team after nearby space could not be found;
- installation of additional fencing for security of the shipyard after several incidents;
- investigation and repair of existing storm drain lines that will be used as part of the final drainage system in the Park;
- import and placement of additional fill, a gravel dike, additional erosion protection, and additional fencing to fortify the site for winter storm protection and security while the Port waits the next contractor to begin work.

*Design Errors and Omissions:* Design errors and omissions account for 3.9% of change orders. Errors and omissions are caused by ambiguity in the design and are part of all projects. Industry guidance suggest a range of 2% to 3% is expected and normal. This is higher by 0.9% from the high range; however, in the opinion of Public Works and Port staff, does not rise to the threshold for seeking damages from the design firm, AECOM. However, this performance will be noted by staff and may be a consideration during selection and award of future contracts should the remaining construction contracts trend high.

Overall, while the amount of change order work is higher than typical for Port projects, the total proposed contract amount of \$4,789,793 is approximately \$870,000 less than the Engineer's Estimate for the contract and approximately \$337,000 less than the second lowest bid received for the contract without consideration of the extra work requested by Port staff.

During the course of construction, timely decision making is critical to minimize cost and schedule impacts of extra work, and to avoid construction claims arising from disputes and delays in decision making. The standard General Conditions of the Contract used by both the Port and City require the contractor to initiate a potential change order or to quickly respond to a Port request by submitting a narrative describing the scope and a cost proposal as a good faith estimate. The Port is obliged to review and respond within 10 working days by either approving or rejecting the proposal. In some cases, the reason for the extra work is disputed, but it is agreed the extra work is necessary and the cost proposal is acceptable. In some cases, the costs cannot be accurately estimated and the work is authorized on a force account with a not to exceed amount, with actual costs documented and tracked. For these reasons, it may be necessary for staff to authorize extra work contingent upon Port Commission approval, or to authorize extra work that is in dispute and may exceed the Port Commission authorized contingency pending resolution of the dispute. When it is

foreseeable that change order work may exceed the authorized contract amount and duration, staff advises the Chief Harbor Engineer. In this case, negotiations resulted in acceptable change orders for all parties for necessary work, but that exceeded the authorization. In the opinion of staff, the costs are fair and reasonable, there is adequate funding, and the overall costs are within the budget limit set for this portion of the Park.

**LOCAL BUSINESS ENTERPRISE (LBE) PARTICIPATION**

The City Contract Monitoring Division set a 24% LBE subcontracting goal for this Contract based on an analysis of the scope of work. Shimmick’s bid included 24% LBE subcontractor participation. Three prior contract change orders have increased the LBE subcontractor participation to 30.6%. Shimmick is not an LBE and ownership is classified as Other Business Owned (OBE). The ownership classification of LBE firms and allocation of the contract amount is as follows:

<b>LBE Subcontractors</b>	<b>Type</b>	<b>ORIGINAL AMOUNT</b>	<b>% TOTAL</b>	<b>PRIOR CHANGE ORDER AMOUNT</b>	<b>PROPOSED CHANGE ORDER AMOUNT</b>	<b>PROPOSED CONTRACT AMOUNT</b>	<b>% TOTAL</b>
Alta Engineering	WBE	\$ 713,004.71	17.35%	\$ 404,535.85	\$ 79,690.18	\$ 1,197,230.74	25.00%
DLD Lumber (Supplier)	MBE	\$ 62,000.00	1.51%	\$ (37,845.60)		\$ 24,154.40	0.50%
Team North Construction	WBE	\$ 225,000.00	5.47%	\$ 120,773.50		\$ 345,773.50	7.22%
Hernandez Engineering	MBE	\$ 19,000.00	0.46%	\$ (7,826.00)		\$ 11,174.00	0.23%
Cal-Con Pumping	WBE	\$ 11,500.00	0.28%	\$ (5,958.62)		\$ 5,541.38	0.12%
Total LBE		\$ 1,030,504.71	25.07%	\$ 473,679.13	\$ 79,690.18	\$ 1,583,874.02	33.07%
Note: Suppliers amounts only count 60% toward LBE goal							

Port staff now recommend approval of a fourth and final contract change order which would result in a final LBE subcontractor participation of 30.5% on this Contract.

**SAN FRANCISCO LOCAL HIRING POLICY FOR CONSTRUCTION**

The Contract complies with the City's Local Hiring Ordinance which went into effect on March 25, 2011. The mandatory participation level applicable for this Contract 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. The proposed contract change order will comply with the requirement. The Office of Economic and Workforce Development administers the Local Hiring Policy for compliance and has found the Contractor in compliance with the Policy.

**REGULATORY PERMITS**

Work associated with the proposed change order does not impact the Project regulatory permits.

**FUNDING**

The proposed contract change order will be entirely funded by proceeds from the City’s 2008 Parks General Obligation Bond, as approved by San Francisco voters in February 2008. The final contract amount, including the proposed change order, is within the original budget established for this portion of the overall Crane Cove Park Project.

## **SCHEDULE**

The original Contract awarded to Shimmick included a time limit of 182 consecutive calendar days to bring the contract work to substantial completion after the Port issued the notice to proceed, and a time limit of 60 additional calendar days to achieve final completion. Port staff issued the notice to proceed on November 16, 2016. The Contract includes liquidated damages for delay as it was anticipated that work on the next construction contract to build the Park would follow upon completion of the Shimmick Contract. As explained below, staff have determined that Shimmick did not delay the contract completion and therefore there are no grounds for assessment of liquidated damages.

During construction, staff issued two change orders for additional work that increased the time limit for substantial completion by 76 days, and the Contractor continued to work diligently. Also during construction, bids for the next contract were not successful which meant the next contractor would be significantly delayed and the site would be left unoccupied during the winter rainy season. At that time, staff issued change order work to prepare the site for winter and add additional security measures to protect the Phase I work from potential rain damage and coastal erosion. This change order includes an additional 92 days for substantial completion. However, these delays to the contract duration were not caused by the Contractor and therefore, staff have determined that there is that no basis to assess liquidated damages for delay against the Contractor.

## **RECOMMENDATION**

Port staff request authorization to execute a fourth and final change order modification to Construction Contract No. 2740, Crane Cove Park Surcharge and Site Preparation Project, to increase the contract scope and amount by the sum of \$272,277, to extend the substantial completion date by 168 calendar days, and to increase the contract time limit for final completion of the contract to a maximum of 60 calendar days after adoption of the proposed Port Commission resolution.

Prepared by: Steven Reel  
Project Manager

David Beaupre  
Senior Waterfront Planner

Prepared for: Rod Iwashita, Chief Harbor Engineer

## **ATTACHMENTS**

Attachment A – Crane Cove Park Status Update

Attachment B – Site Plan

Attachment C – Summary of Change Orders

**PORT COMMISSION  
CITY AND COUNTY OF SAN FRANCISCO**

**RESOLUTION NO. 18-34**

- WHEREAS, On September 13, 2016, the Port Commission authorized Port staff to award Construction Contract No. 2740, Crane Cove Park Site Preparation and Surcharge Project (the "Contract"), to Shimmick Construction Company, Inc. ("Shimmick"), the lowest responsive and responsible bidder, for the amount of \$4,110,000, and authorized Port staff to increase the contract amount, as necessary for unanticipated contingencies, by an additional amount of \$411,000 (10% of \$4,110,000) through contract modification or change order (Port Commission Resolution 16-37); and
- WHEREAS, Construction Contract No. 2740 is the first construction contract of several that will create Phase 1 of the new Crane Cove Park (the "Project"), a major new public open space to be located within former shipyard facilities at the recently designated Union Iron Works National Historic; and
- WHEREAS, the Contract scope includes site clearing, building demolition, embankment construction for the future 19th Street, installation of wick drains and surcharge fill, disassembly and storage of the two cranes, and construction of new foundations for the two cranes; and
- WHEREAS, the Contract was awarded on September 21, 2016, requiring Shimmick to achieve substantial completion within 182 consecutive calendar days after the Port's notice to proceed, and to achieve final completion no later than 60 calendar days after substantial completion; and
- WHEREAS, Port staff issued the notice to proceed on November 16, 2016; and
- WHEREAS, On May 17, 2017, Port staff approved the first contract change order for additional work in the amount of \$67,737.03 and approved a contract time extension of 8 calendar days; and
- WHEREAS, On August 29, 2017, Port staff approved a second contract change order for additional work in the amount of \$87,027.03 and approved a contract time extension of 68 calendar days; and
- WHEREAS, On December 12, 2017, Port staff approved a third contract change order for additional work in the amount of \$252,752.63, and agreed to continue negotiations for a corresponding contract time extension; and



WHEREAS, Shimmick has completed all contract work to the satisfaction of Port staff, and Port staff have completed negotiations for additional work performed under a proposed final change order and staff now seek authorization to execute a fourth and final contract change order in the amount of \$272,276.74, to increase the final contract amount to \$4,789,793.43, and to increase the contract time by an additional 168 days; and

WHEREAS, The proposed final change order will result in a total Local Business Enterprise subcontractor participation of 30.5%, which satisfies the Local Business Enterprise subcontracting goal of 24% established by the Contract Monitoring Division for this Contract; now therefore be it

RESOLVED, that the San Francisco Port Commission hereby authorizes Port staff to execute a final modification to Construction Contract No. 2740, Crane Cove Park Site Preparation and Surcharge Project, with Shimmick Construction Company, Inc., to issue a fourth and final contract change order to increase the current contract amount by \$272,276.74, for additional work related to design errors and omissions, unforeseen site conditions, changes in quantities, and additional work requested by Port staff as described in the accompanying staff report, resulting in an amended and final Contract amount of \$4,789,793.43; and be it further

RESOLVED, that the San Francisco Port Commission hereby authorizes staff to increase the contract time limit for substantial completion from 181 calendar days to 350 calendar days; and be it further

RESOLVED, that the San Francisco Port Commission hereby authorizes staff to increase the contract time limit for final completion of the work to a maximum of 60 calendar days after adoption of this resolution.

***I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of May 22, 2018.***

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Secretary