



MEMORANDUM

June 9, 2023

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Willie Adams, Vice President
Hon. Gail Gilman
Hon. Ed Harrington
Hon. Steven Lee

FROM: Elaine Forbes
Executive Director 

SUBJECT: Request for retroactive authorization to modify Construction Contract No. 2843, Pier 70 Shipyard Grading and Abatement, to extend the substantial completion date.

DIRECTOR'S RECOMMENDATION: Approve the Attached Resolution No. 23-30

EXECUTIVE SUMMARY

Port staff requests that the Port Commission authorize a contract modification to extend the substantial completion date of Construction Contract No. 2843, Pier 70 Shipyard Grading and Abatement (the "Project"), by an additional 93 calendar days. The requested time extension is in addition to a prior time extension of 12 days (10% of the original contract duration) granted by Port staff. Under Section 6.22 of the San Francisco Administrative Code, time extensions in excess of 10% of the original contract duration are subject to Port Commission approval.

The original contract provided a duration of 120 calendar days for substantial completion of the work. A total of 225 days was required to substantially complete the work due to unavoidable delay beyond the control of the contractor that could not have been avoided by the Contractor's exercise of due care. These delays are due to weather, additional Port-requested work, differing site conditions, and supply chain issues. Port staff has determined there is no basis to assess liquidated damages against the contractor for the delay. The contract budget has remained under the 10% contingency amount through

substantial completion. Port staff anticipates that the overall budget will remain within the 10% contingency through final completion.

STRATEGIC OBJECTIVE

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

Resiliency: This Project raised the grade by approximately 2 ½ feet at the site to provide resilience to sea level rise.

Equity: Port construction contracting provided job opportunities that had local hiring and LBE requirements. The contractor is an MBE firm and the team has MBE subcontractors.

Sustainability: This project honors the Port's commitment to the Regional Water Quality Control Board to provide a remedy for contaminated native soil at Pier 70 as described in the Pier 70 Risk Management Plan. Additionally, this project removed an existing storm drainpipe that was discovered to have PCB contamination, which will prevent contamination from entering the Bay.

Productivity & Stability: The project prepared this space for potential future tenants.

BACKGROUND

The Port Commission awarded this contract to Yerba Buena Engineering and Construction Inc. ("YBE") on June 14, 2022. The contract amount was for \$1,162,090, with an LBE subcontracting commitment of 20.59%. The scope of work included: removal of an underground pipeline contaminated by polychlorinated biphenyls ("PCBs"), placing carbon-amended backfill to remediate PCBs, re-grading existing soil stockpiles onsite, and placing durable cover over the entire unpaved site to create a level surface with positive drainage. This work addressed environmental issues as well as prepared the site as a future leasable space. Exhibit A presents the project location.

The contract work began on August 10, 2022. During this construction contract, there have been additional delays due to weather, additional scopes of work added by Port staff, unforeseen site conditions, and supply chain issues. This fall and winter, San Francisco has seen significantly more rain than usual, and this contract was affected by rain days in excess of the contract allowances. There were 28 weekday rain days between November 1, 2022 and substantial completion, on March 23, 2023. As the project involved excavation on an old Shipyard site, the contractor encountered unforeseen concrete and debris materials during the course of the project. The additional excavation efforts and disposal of these materials resulted in extra time needed for completion. Port staff also added some additional grading work to the contract as a change order. Supply chain issues for the project occurred during construction, which also adversely impacted the project schedule. Some of the additional materials that needed to be ordered due to change order work for both Port-requested tasks and unforeseen site conditions were delayed in arriving onsite. Port staff and YB have worked together to focus on addressing these unforeseen conditions expeditiously and cost-effectively.

Throughout this process, despite the schedule delays, YB and Port staff focused on staying within the budget. These collaborations were successful because the total change orders are anticipated to be 6% of the original contract amount, less than the 10% budgeted contingency.

Section 6.22(h) of the City Administrative Code allows staff to grant schedule increases up to 10 percent of the original contract amount. Now that the work is complete, Port staff is seeking a retroactive schedule extension to account for the construction delays. Port staff has found no basis to assess liquidated damages against the Contractor for the construction delay. Port staff, therefore, requests authorization to execute a contract modification to extend the original contract duration of 120 calendar days for substantial completion by an additional 93 calendar days (in addition to Port staff’s prior extension of 12 days). The requested contract modification would thus extend the substantial completion date from December 8, 2022 to March 23, 2023.

SAN FRANCISCO LOCAL BUSINESS ENTERPRISE REQUIREMENT

The Contract Monitoring Division established a 20% Local Business Enterprise (“LBE”) subcontracting goal for this Project. YB’s bid committed to 20.59% LBE participation. YB anticipates meeting the original commitment, and CMD is in the process of reviewing for compliance.

FUNDING

The projected final anticipated contract expenditure details are shown below. Change orders add up to approximately 7% of the original contract value, less than the budgeted 10% contingency.

Contract Award	\$1,162,090
Total authorized contract amount, including 10% contingency	\$1,278,299
Anticipated Contract Change Orders	\$85,294
Total Anticipated Contract Expenditures	\$1,247,384

SCHEDULE

The modified Project completion schedule is noted below:

Port Commission Authorization to Award	June 14, 2022
Notice to Proceed	August 10, 2022
Original Substantial Completion	December 8, 2022
Revised Substantial Completion	March 23, 2023

SUMMARY

The Contractor experienced delays in contract completion beyond 10% of the original contract duration for the Project. The circumstances for the delay included rain delays, additional Port-requested scopes of work, differing site conditions beyond the contractor's control, and supply chain issues. Port staff determined that the additional time required to complete the Project was reasonable and justified. As a result, staff finds no basis to assess liquidated damages for the delay.

Port staff requests Port Commission authorization to execute a contract modification to extend the original contract duration of 120 days for substantial completion by an additional 93 calendar days, in addition to the Port staff's prior time extension of 12 days.

Prepared by: Erica Petersen
 Project Manager

For: Rod K. Iwashita
 Deputy Director, Chief Harbor Engineer

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

RESOLUTION NO. 23-30

- WHEREAS, On June 14, 2022, the Port Commission adopted Resolution No.22-32, which authorized the award of Construction Contract No. 2843 (“the Contract”), Pier 70 Shipyard Grading and Abatement, to Yerba Buena Engineering and Construction Inc. (“Contractor”); and
- WHEREAS, The contract scope included removal of a pipe contaminated by polychlorinated biphenyls (“PCBs”), placing activated carbon to remediate PCBs, re-grading existing stockpiles onsite and placing durable cover to create a level surface with positive drainage; and
- WHEREAS, During the course of construction, the Contractor encountered rain delays, unforeseen conditions, and unavoidable delays as defined in the contract, that required additional time to complete the contract work; and
- WHEREAS, Section 6.22(h) of the City Administrative Code authorizes the Port Commission to approve time extensions greater than 10% of the original contract amount or duration, and such a time extension is permissible after completion of the work when there is no basis to assess liquidated damages for the delay against the contractor; and
- WHEREAS, Port staff requests authorization of an extension of time of 93 calendar days to the original contract duration of 120 calendar days, which combined with Port staff’s prior extension of 12 calendar days, will extend the original contract’s substantial completion date from December 8, 2022 to March 23, 2023; and
- WHEREAS, As described in the accompanying staff report, Port staff has determined that the delays in the completion of the contract were beyond the Contractor’s control and there is no basis to assess liquidated damages against the Contractor; now, therefore be it
- RESOLVED, That the Port Commission hereby authorizes Port staff to execute a contract modification to Contract No. 2843, Pier 70 Shipyard Grading and Abatement, to extend the existing substantial completion date by an additional 93 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 June 13, 2023.

Secretary

EXHIBIT A

AREA OF WORK LOCATION MAP

