




## MEMORANDUM

December 4, 2020

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

**FROM:** Elaine Forbes  
Executive Director 

**SUBJECT:** Request for retroactive authorization to modify Construction Contract No. 2812, Crane Cove Park Improvements and 19<sup>th</sup> Street Parking Lot, to extend the substantial completion date.

**DIRECTOR'S RECOMMENDATION:** Approve Attached Resolution No. 20-52

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### **EXECUTIVE SUMMARY**

Port staff requests that the Port Commission authorize a contract modification to extend the substantial completion date of Construction Contract No. 2812 Crane Cove Park Improvements and 19<sup>th</sup> St Parking Lot (the "Project"), by an additional 174 calendar days. The requested time extension is in addition to a prior time extension of 37 days (10% of original contract duration) granted by Port staff due to unforeseen site conditions. Under Section 6.22 of 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 375 calendar days for substantial completion of the work. A total of 586 days was required to substantially complete the work due to an unusually wet weather season, added scope from the Building 49 contract in order to expedite park opening, design errors and omissions, unforeseen site conditions beyond the contractor's control, and COVID-19 related delays. Port staff has determined there is no basis to assess liquidated damages against the contractor for the delay, and the contract budget has remained within the 10% contingency amount through substantial completion. The contract also includes a 365-day landscape

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maintenance period, so final completion is scheduled for September 30, 2021. Port staff anticipates that the overall budget will remain within the 10% contingency through final completion.

## **Strategic Objectives**

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

*Evolution:* The Park is a major new public open space that preserves historic maritime resources, provides public access and recreation opportunities to the Bay, contributes to a vibrant new Pier 70 neighborhood, and expands the Port's necklace of public open spaces.

*Resiliency:* The Park is designed for 28 inches of Sea Level Rise.

*Equity:* The Contract promoted living wage jobs by providing opportunity for local business enterprises (LBE's) and by meeting mandates for Local Hire in construction projects.

*Sustainability:* Park design and construction included best management practices for storm water management, water efficient landscaping, native plants, and energy efficient lighting.

## **Background**

The Port Commission awarded this contract to Gordon N. Ball, Inc. (GNB) on November 13, 2018. The contract amount was for \$17,845,000, with an LBE subcontracting commitment of 24.54%. The contract scope was to construct Crane Cove Park and the 19<sup>th</sup> St Parking Lot. This included site grading and formation, shoreline reconstruction including a beach and revetment, in-water sediment cap, hardscape, landscaping, custom site furnishings, site lighting, irrigation, stabilization of the historic (non-functional) gantry crane, use of shipyard relics as interpretive elements, building relocation, site utilities, and construction of a parking area.

The contract work began on January 7, 2019. At Port Staff's last presentation regarding this contract in August 2019, the project was still on schedule with the exception of excessive rain days, due to the wet winter. Since that time, there have been delays due to another unusually wet winter season, added scope from the Building 49 contract in order to expedite park opening, design errors and omissions, unforeseen site conditions beyond the contractor's control, and delays due to COVID-19. Port staff and GNB have worked together to focus on mitigating these delays while keeping the project within budget.

Section 6.22(h) of the City Administrative Code allows staff to grant a contract time extension not exceeding 10 percent of the original schedule due to unavoidable delays. Beyond that, the Port Commission may grant retroactive approval to increase the contract duration beyond 10 percent of the original contract schedule. This allows staff

the flexibility to negotiate modifications to the schedule without causing further delays to the Project, and then to seek Port Commission approval when the work is done, and the timeline is known. An explanation of why the contract duration was extended is presented below:

- Rain Delays – These delays are due to the rain days in excess of the contract allowances. There were 15 rain days between June 2019 and substantial completion, August 14, 2020. Previous rain delays were incorporated into the 37 days already granted to the contractor by Port staff.
- Building 49 scope – Port staff originally intended to award a separate contract for the construction of Building 49. In May 2019, however, the bids for a separate Building 49 contract failed, and Port staff subsequently added portions of the Building 49 scope to the GNB contract. The added scope were elements critical to the Park opening, including an electrical connection for the Park and paving adjacent to Building 49 used for loading and unloading human-powered watercraft.
- Design Errors and Omissions – As is typical on most contracts, there were typos, miscalculations, and some work items that were excluded in the construction documents.
- Unforeseen Site Conditions – There was some additional work required once excavations began on site.
- COVID-19 – the site had to partially shut down in Spring 2020. Some suppliers were shut down for longer. There were additional delays getting materials from suppliers.

For the reasons cited above, and in the spirit of partnering, 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 375 calendar days for substantial completion by an additional 174 calendar days (in addition to Port staff's prior extension of 37 days). The requested contract modification would thus extend the substantial completion date from January 16, 2020 to August 14, 2020. The Park opened to the public on September 30, 2020.

Because the contract also includes a 365-day landscape maintenance period, the final completion of the contract is scheduled for September 30, 2021.

Throughout this process, despite the schedule delays GNB and Port staff focused on staying within the budget. These collaborations were successful, because the contract has stayed within the 10% contingency even after multiple change orders related to the items above. The Park is now open and the public is enjoying the open space during this challenging time.

## **San Francisco Local Business Enterprise Requirement**

CMD enforces the City's Administrative Code Chapter 14B, the Local Business Enterprise and Non-Discrimination in Contracting Ordinance. The ordinance establishes 10% bid discounts for Local Business Enterprise (LBE) prime contractors and empowers CMD to set LBE subcontractor participation requirements based upon availability of LBE firms to complete the type of work included in the contract. Prior to contract bidding, CMD staff reviewed the Project scope and funding sources for this contract and determined a 23% LBE subcontractor participation requirement for the Project scope of work.

GNB's performance exceeded the 23% LBE subcontracting goal with 25.87% LBE subcontractor participation for this contract. They added Albion Partners and HVYW8 Trucking to their contract, and increased nearly every LBE firm's contract work amount. The table below describes the LBE proposed subcontractors and actual work performed.

**Table 1: Crane Cove Park LBE Contractor List**

<b>Firm</b>	<b>Type of Work</b>	<b>Proposed % Contract Work*</b>	<b>Proposed Amount of Contract Work</b>	<b>Actual % Contract Work</b>	<b>Actual Amount of Contract Work</b>	<b>LBE Type</b>	<b>Ethnicity**</b>
Giron Construction	Grading	0.14%	\$25,000	0.15%	\$29,664.25	MBE	African American
Hoseley Corporation	Utilities, Hardscape	17.93%	\$3,200,000	17.60%	\$3,432,443.31	OBE	Non-Minority
McKee & Company Electric	Electrical	2.78%	\$496,965	3.35%	\$653,317.09	MBE	Asian American
Solher Iron, Inc	Metal Work	3.04%	\$542,405	2.90%	\$565,922.37	MBE	Latino American
Team North Construction	Sweeping	0.22%	\$40,000	0.20%	\$38,600.00	WBE	Non-Minority
Toure Associates	Demolition	0.28%	\$50,000	0.32%	\$62,520.00	MBE	African American
Yolanda's Construction Admin & Traffic	Traffic Control	0.14%	\$25,000	0.20%	\$39,962.00	MBE	African American
Albion Partners	Asbestos Monitoring	0.00%	\$0	0.69%	\$135,242.50	OBE	Non-Minority
HVYW8 Inc.	Trucking	0.00%	\$0	0.45%	\$88,494.00	WBE	Non-Minority
<b>TOTAL</b>		<b>24.54%</b>	<b>\$4,379,370</b>	<b>25.87%</b>	<b>\$5,046,165.52</b>		

*\*% of contract is based on CMD's calculation of the credited amount.*

*\*\*The information set forth in the table is current as of May 14, 2020 from the Contract Monitoring Division. The table is for informational and data collection purposes only and may not be taken into account by the Port Commission when considering the approval or disapproval of any contract award."*

## **Funding**

The projected final Project expenditure details are shown below. Note that the Project will not achieve final completion until the 365-day landscape maintenance period is complete on September 30, 2021.

Contract Award	\$17,845,000
Total authorized contract amount, including 10% contingency	\$19,629,500
Contract Allowances not utilized	\$(8,392)
Contract Change Orders	\$1,669,502
Total Contract Expenditures	\$19,506,110

As set forth above, authorized change orders did not exceed the budgeted 10% contingency.

## **Schedule**

The modified Project completion schedule is noted below:

Port Commission Authorization to Award	November 13, 2018
Notice to Proceed	January 7, 2019
Original Substantial Completion	January 16, 2020
Revised Substantial Completion	August 14, 2020
Scheduled Final Completion (due to 365-day landscape maintenance)	September 30, 2021

## **Summary**

The Contractor experienced delays in contract completion beyond 10% of the original contract duration for the Crane Cove Park Improvements and 19<sup>th</sup> St Parking Lot project. The circumstances for the delay were due to another unusually wet winter season, added scope from the Building 49 contract in order to expedite park opening, design errors and omissions, unforeseen site conditions beyond the contractor's control and COVID-19. 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 such delay.

Port staff requests Port Commission authorization to execute a contract modification to extend the original contract duration of 375 days for substantial completion by an additional 174 calendar days, which in addition to the Port staff's prior time extension of 37 days, totals 586 calendar days.

Prepared by: Erica Petersen  
Project Manager

Prepared for: Rod K. Iwashita  
Chief Harbor Engineer

**PORT COMMISSION  
CITY AND COUNTY OF SAN FRANCISCO  
RESOLUTION NO. 20-52**

- WHEREAS, on November 13, 2018, the Port Commission adopted Resolution No.18-61, which authorized the award of Construction Contract No. 2812, Crane Cove Park Improvements and 19<sup>th</sup> St Parking Lot to Gordon N. Ball, Inc. (“GNB” or “Contractor”); and
- WHEREAS, the contract scope included site grading and formation, shoreline reconstruction including a beach and revetment, in-water sediment cap, hardscape, landscaping, custom site furnishings, site lighting, irrigation, stabilization of the historic (non-functional) gantry crane, use of shipyard relics as interpretive elements, building relocation, site utilities, and construction of a parking area.; and
- WHEREAS, during the course of construction, the Contractor encountered 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 contract 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 174 calendar days to the original contract duration of 375 calendar days, which combined with Port staff’s prior extension of 37 calendar days, will extend the original contract substantial completion date from January 16, 2020 to August 14, 2020; and
- WHEREAS, as described in the accompanying staff report, Port staff have 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. 2812, Crane Cove Park Improvements and 19<sup>th</sup> St Parking Lot, to extend the existing substantial completion date by an additional 174 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 December 8, 2020.***

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Secretary