

SUPPLEMENTAL AGENDA REPORT

Resolution: Authorization to Approve Change Order and Other Related Actions to Construct the Runway 10R-28L Shoulder Rehabilitation Project Under the North Field Runway Safety Area (NFRSA) Project, Oakland International Airport (OAK) (Engineering)

MEETING DATE: 6/25/2015

AMOUNT: Change Order Amount Not-To-Exceed \$375,000

PARTIES INVOLVED: Oliver DeSilva, Inc. dba Gallagher & Burk, Inc.
Oakland, CA
David DeSilva, President

SUBMITTED BY: Deborah Ale-Flint, Director of Aviation
Chris Chan, Director of Engineering

APPROVED BY: J. Christopher Lytle, Executive Director

ACTION TYPE: Resolution

EXECUTIVE SUMMARY

The purpose of this agenda report is to outline and recommend to the Board of Port Commissioners (Board) two (2) actions associated with the construction of the Runway 10R-28L Shoulder Rehabilitation Project under the North Field Runway Safety Area (NFRSA) Project at Oakland International Airport (OAK) as follows:

1. Authorize the Executive Director to approve and execute change order to Gallagher & Burk, Inc., for an amount not-to-exceed \$375,000; and
2. Authorize an increase of \$375,000 to the change order authority limit required to complete the NF RSA project..

SUMMARY

~~Authorization to increase the Change Order Authority Limit and other related actions are being requested to construct the Runway 10R-28L Shoulder Rehabilitation Project under the North Field Runway Safety Area (NFRSA) project. The Shoulder Rehabilitation Project is recommended to be accomplished as a Change Order to the NFRSA project. The Port and Gallagher & Burk, Inc. are negotiating the cost of the proposed Change Order. Port staff recommends that the contract change order authority limit be increased for the amount of this change order. There is no increase in the project budget at this time as the~~

~~total project expenditures are forecasted to remain within the previously authorized amounts.~~

~~This item will be supplemented before the Board meeting.~~

BACKGROUND

The RSA Project at Oakland International Airport (OAK) is a Congressionally-mandated aviation safety project and is one of the implementing actions in the Port Strategic Plan. Congress mandated (Public Law [PL] 109-115) that all Part 139-certificated airports (which include OAK) must improve RSAs to meet current Federal Aviation Administration (FAA) standards by December 31, 2015. While no specific penalties are included in the law, non-compliance could jeopardize future federal funding and operating authority at OAK.

On June 5, 2014, the Board of Port Commissioners (Board) approved several actions for the North Field Runway Safety Area (NFRSA) project related to the approval of the Plans and Project Manuals and authorization to advertise and award the main NF RSA project and three (3) related Small Business Enterprise (SBE) carve-out projects: 1) Runway 10R-28L Shoulder Rehabilitation Project; 2) Demolition of Pump House No. 3 and Drainage Improvement Project; and 3) North Field Vehicle Service Road (VSR) Paving Project. The June 5, 2014 Board approvals included authorizing the Executive Director to re-bid the SBE carve-out projects to the general contractor pool should any of the SBE set aside projects receive less than two (2) bids.

The main NFRSA project has been in construction since mid-November 2014 and recently, on June 10, 2015, completed improvements to Runway 10R-28L (Phase 3). The current work underway for the NFRSA project involves improvements to Runway 10L-28R and is planned to be substantially complete on or about December 14, 2015 (Phase 2). The mandated work by the FAA is projected to be delivered well in advance of the deadline. Related work is projected to continue into early 2016.

On February 7, 2015, the Port advertised the Runway 10R-28L Shoulder Rehabilitation Project with a bid opening date of March 11, 2015. Based on this schedule, the work was estimated to be completed in Phase 3.

On March 11, 2015, the Port received no bids from SBEs for the Runway 10R-28L Shoulder Rehabilitation Project, although several SBEs attended the pre-bid conference as well as the site walk through.

Port consulted with the FAA on how to deliver the Runway 10R-28L Shoulder Rehabilitation Project within the confines of the Airport Improvement Program (AIP) grant eligibility rules. The FAA concluded that the Port can either re-bid the project or accomplish it as a change order to the main NFRSA project.

Following the bid results and consultation with the FAA, Port staff sought to continue with the SBE carve out goals and accomplish the Shoulder Rehabilitation Project through a change order to the NFRSA project. To facilitate finding suitable SBE subcontractors for

the change order work, the Social Responsibility Division provided the prime contractor, Gallagher & Burk, Inc. (G&B) with the contact information of two interested SBEs (who attended the pre-bid) whom they may be able to team with potentially. G&B received this information to supplement their own efforts in finding a suitable SBE subcontractor.

ANALYSIS

Port staff believes that it is in the best interest of the Port to complete the Runway 10R-28L Shoulder Rehabilitation work as a change order to the NFRSA project.

Port staff and G&B have been working together in outreaching to SBE subcontractors who may be able to perform the Shoulder Rehabilitation Project. Despite these extensive outreach efforts, only one SBE subcontractor (Bond Blacktop) would accept the Port's contract provisions to perform the Shoulder Rehabilitation work. Feedback obtained indicates that there are SBE contractors experienced in this work, but mostly associated with streets and parking lots, but not in an active airport environment. The Port and G&B have been in protracted negotiations for pricing to perform the Shoulder Rehabilitation work as a change order to the main NFRSA project. It is anticipated that the change order amount for the Shoulder Rehabilitation Project would not exceed \$375,000.

With the protracted negotiations, the main NFRSA project transitioned to the next construction phase where Runway 10L-28R is currently closed while Runway 10R-28L is open to aircraft operations. The work is estimated to require 12 shifts to complete which means that both main North Field runways would be closed during this time. Having both the North Field runways closed at the same time presents a risk to airport operations because it leaves no backup to Runway 12-30 should it become non-operational. The urgency associated with the Runway 10R-28L Shoulder Rehabilitation work stems from the desire on the part of the FAA to complete it during this construction phase. However, at the same time, the FAA understands the need to consider potential impacts to airport operations in accomplishing the work. Consequently, to minimize risks to airport operations and still accommodate the FAA, Port staff is investigating the feasibility of performing portions of the work while Runway 10R-28L is open together with postponing the less critical portions of the work until the spring of 2016 when Runway 10L-28R will be open and the weather is likely to be conducive to accomplishing the remainder of the work.

The proposed change order work will increase the total cumulative costs of change order for the NFRSA project. Accordingly, it is also requested that the Board authorize an increase in change order authority limit by the amount of this change order

BUDGET & STAFFING

The proposed action does not have any budget or staffing impact. There is no increase in the project budget being requested as the total project expenditures are forecasted to remain within the previously authorized amounts.

MARITIME AVIATION PROJECT LABOR AGREEMENT (MAPLA)

The provisions of the Port of Oakland Maritime and Aviation Project Labor Agreement (MAPLA) will apply to the RSA construction project funded by the FAA, an agency of the U.S. Department of Transportation (DOT), with the following exception: For the purposes of DOT funded projects, the provisions of MAPLA permitting the possible imposition of sanctions and/or binding arbitration for failure to demonstrate “good faith” efforts to meet local hiring goals do not apply.

STRATEGIC PLAN

The action described herein would help the Port achieve the following goals and objectives in the Port’s Strategic Plan (<http://www.portofoakland.com/pdf/about/strategicPlan2011-2015.pdf>)

Goal A: Create Sustainable Economic Growth for the Port and Beyond

- Goal A: Objective 1: Maximize the use of existing assets.
- Goal A: Objective 3: Increase revenue, job creation and small business growth.

Goal B: Maintain and Aggressively Grow Core Businesses

- Goal B: Objective 1: Retain existing customers and tenants.
- Goal B: Objective 3: Price Port services to provide a highly competitive value.

Goal C: Promote Equitable Community Access to Employment and Business Opportunities

- Goal C: Objective 1: Comply with all federal, State, local and Port workforce mandates.

LIVING WAGE

Living wage requirements, in accordance with the Port’s Rules and Regulations for the Implementation and Enforcement of the Port of Oakland Living Wage Requirements (the “Living Wage Regulations”), do not apply to the construction portion (change order) of this report, because the contract is a construction contract covered by the federal prevailing wage rules and the prevailing rate of wage is higher than the wage required by the Living Wage Regulations. However, living wage requirements will apply to the construction management services if the service provider employs 21 or more employees working on Port-related work.

ENVIRONMENTAL

CEQA Determination: As authorized by the Board of Port Commissioners, the Port's Executive Director approved the Initial Study/Mitigated Negative Declaration at a special public hearing for the RSA project on September 7, 2012. A Notice of Decision was circulated for 14 days, and the decision became final on September 21, 2012. A Notice of Determination was subsequently filed with the Alameda County Recorder's office.

For a complete summary of the environmental entitlements required and received for this project see Item 2.1 from the January 24, 2013 Board meeting.

GENERAL PLAN

Pursuant to Section 727 of the City of Oakland Charter, this project has been determined to conform to the policies for the transportation designation of the Oakland General Plan.

OWNER-CONTROLLED INSURANCE PROGRAM (OCIP)

As the construction project is a capital improvement project, the applicable Owner Controlled Insurance Program (OCIP) coverages and provisions apply to the construction phase.

OPTIONS

1. Approve the actions as outlined in this agenda report. This is the recommended option.
2. Do not proceed with the actions requested in this Agenda Report and instead re-bid the Plans and Specifications using standard public bidding procedures scheduled such that the work will be accomplished in spring 2016. This is not recommended because re-bidding the Shoulder Rehabilitation work may not achieve the desired outcome of having the work accomplished by an SBE since bidding the work to the general contracting community will increase competition from larger contracting companies.

RECOMMENDATION

It is recommended that the Board adopt a resolution to:

1. Authorize the Executive Director to approve and execute change order to Gallagher & Burk, Inc., for an amount not-to-exceed \$375,000; and
2. Authorize an increase of \$375,000 to the change order authority limit required to complete the NF RSA project.