



SUPPLEMENTAL AGENDA REPORT

PROPOSED ACTION: Resolution: Approve and Authorize the Executive Director to: (1) Waive Formal Competitive Procurement Procedures; (2) Execute a Single Source Contract with Power Engineering Construction Company for Construction of Jack London Square Boardwalk Repairs Structures 7 & 8, in an Amount Not-to-Exceed ~~TBD~~ \$3,348,835; and (3) Execute Contract Change Orders in an Amount Not-to-Exceed ~~TBD~~ \$838,000; and Finding that the Proposed Action is Exempt Under the California Environmental Quality Act. (Engineering, Commercial Real Estate)

Submitted By: Kristi McKenney, Chief Operating Officer; Pamela Kershaw, Director of Commercial Real Estate; Danny Wan, Executive Director

Parties Involved: Power Engineering Construction Company (Alameda, CA)

Amount: ~~TBD~~ \$3,348,835 (Capital Expense) (part of a total project budget of ~~TBD~~ \$5,282,000)

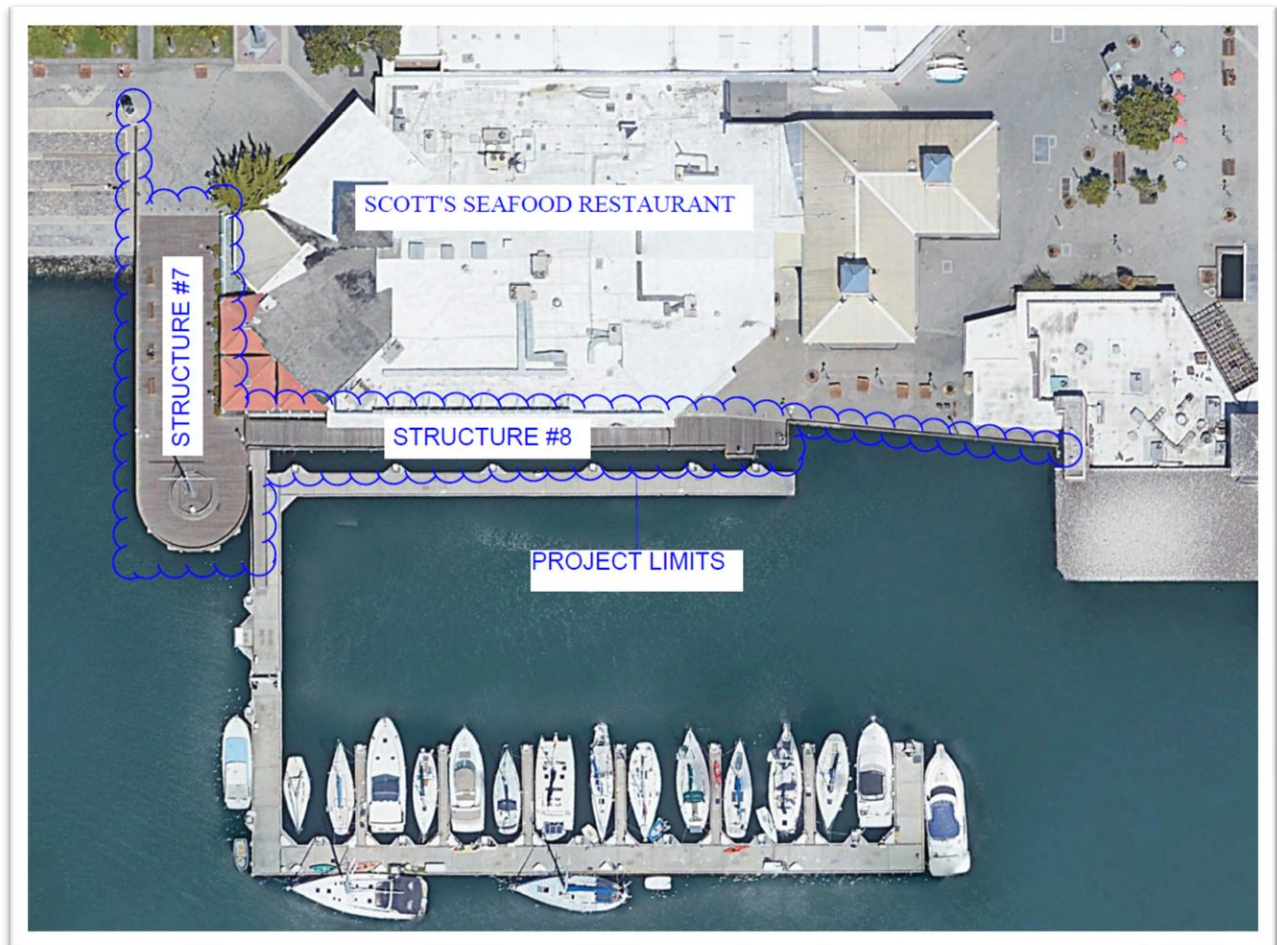
EXECUTIVE SUMMARY:

On August 31, 2022, the San Francisco Bay Conservation and Development Commission (BCDC) issued an amended Cease and Desist and Civil Penalty Order (Case No. CCD2022.003.02) that requires the Port of Oakland (Port) to complete repairs to address structural defects with the public access boardwalk located between Scott's Seafood Restaurant and the Jack London Marina. In order to facilitate completing the repairs by the deadline of March 15, 2024, Staff recommends waiving formal competitive procurement procedures, entering into a construction contract, and executing construction change orders that may be necessary to complete the construction work with Power Engineering Construction Company (Power Engineering). Power Engineering provided pricing for this work that is within 15% of the Port estimate and Port Staff has reviewed and determined the bid to be reasonable. The requested 25% change order authority includes contingency for additional work to be determined and agreed to during construction to ensure temporary power to the marinas adjacent to the boardwalk.

BACKGROUND & ANALYSIS

On August 31, 2022, the Port received an amended Cease and Desist Order from BCDC to complete repairs to the public access boardwalk located between Scott's Seafood Restaurant and the Jack London Marina. The structure has been red-tagged and closed since June 2019 by the CIM Group (CIM), which is the common area operator for Jack London Square. CIM hired Simpson Gumpertz & Heger (SGH) to prepare construction documents for the repair of boardwalk structure numbers 7 and 8. BCDC approved these plans. CIM solicited bids from marine contractors including Power Engineering who was the lowest bidder. CIM then chose to not move forward with the construction of the repairs. Figure 1 shows the limits of the project.

Figure 1 – Jack London Square Boardwalk Structures 7 & 8



The project includes replacing the wood decking and portions of the underlying wood framing as needed on Structure #7, replacing the steel framing supporting Structure #8, replacing the guardrail on both structures and replacing portions of the electrical service to the marina that are mounted to the boardwalk.

Port Staff hired the original designer SGH to update the construction documents and assist with design support during construction. In addition, the Port had Moffatt & Nichol, through its on-call contract with the Port, perform an engineering peer review of the SGH design. SGH completed updating the construction documents in May 2023, consistent with the BCDC approved plans.

On May 11, 2023, staff met with Power Engineering on site to review the plans and specifications and to discuss specific revisions to the documentation that occurred since they last provide pricing for the repairs. **On May 31, 2023, Power Engineering provided pricing for the repair.**

Power Engineering is appropriately licensed and in good standing with the Contractors State License Board; their bid demonstrates that they can perform the work as specified in the contract documents; they have submitted all required documentation; and they have submitted an unconditional offer to provide the work as specified in the contract documents.

Dispensing with Standard Bidding Procedures

The Port can, under some limited circumstances and authorized by the Board under Ordinance No. 4576, forego competitive bidding, including where calling for bids on a competitive basis is “impracticable, unavailing or impossible,” or after a finding and determination by the Board that “it is in the best interest of the Port.” After careful consideration of the complex nature of this project and the March 15, 2024 deadline imposed by BCDC to open the boardwalk to the public, staff concluded that it is in the best interest of the Port to dispense with standard bidding procedures and enter into a Sole Source contract with Power Engineering. Competitively bidding this as a Public Works project will increase the likelihood of not meeting the deadline imposed in the Cease and Desist Order.

OTHER FINDINGS AND PROVISIONS

ENVIRONMENTAL REVIEW

The proposed action was analyzed under the California Environmental Quality Act (CEQA) and was found to be:

- ☒ Categorically exempt under the following CEQA Guidelines Section:
15302 (Replacement or Reconstruction)
- ☐ Not a "Project" under CEQA, as defined in Public Resources Code § 21065.
- ☐ Other/Notes:

BUDGET

- ☐ Administrative (No Impact to Operating, Non-Operating, or Capital Budgets); OR
- ☐ Operating ☐ Non-Operating ☒ Capital

Analysis: The proposed project is included in the Port's five-year CIP.

Table 1: Project Budget

Description	Total Project Budget
Port Labor	\$ 473,000
Consultants	\$ 470,000
Construction	\$ 2,938,000 \$ 3,348,835
Construction Change Order Allowance	\$ 588,000 \$ 838,000
Other ¹	\$ 128,000 \$ 152,165
Total	\$ 4,597,000 \$ 5,282,000

¹ Other Costs include OCIP.

STAFFING

- ☒ No Anticipated Staffing Impact.
- ☐ Anticipated Change to Budgeted Headcount.
Reason:
- ☐ Other Anticipated Staffing Impact (e.g., Temp Help).
Reason:

<p><u>MARITIME AND AVIATION PROJECT LABOR AGREEMENT (MAPLA):</u></p> <p><u>Applies?</u> No (Not Aviation or Maritime CIP Project) – proposed action is not covered work on Port’s Capital Improvement Program in Aviation or Maritime areas above the threshold cost.</p> <p><input checked="" type="checkbox"/> <u>Additional Notes:</u> Proposed action is a Commercial Real Estate Division project.</p>	<p><u>LIVING WAGE</u> (City Charter § 728):</p> <p><u>Applies?</u></p> <p>No (Public Works) – proposed action is a construction contract covered by state or federal prevailing wages that are higher than those under the Living Wage requirements.</p> <p><input type="checkbox"/> <u>Additional Notes:</u></p>								
<p><u>SUSTAINABLE OPPORTUNITIES:</u></p> <p><u>Applies?</u> Yes.</p> <p><u>Reason:</u> The work of this contract will further the Port’s sustainability goals by requiring the Contractor to comply with the Construction and Demolition Debris Waste Reduction Requirements in accordance with the Port of Oakland Resolution No. 01197.</p>	<p><u>GENERAL PLAN</u> (City Charter § 727):</p> <p><u>Conformity Determination:</u></p> <p>CRE – proposed action is within City of Oakland’s planning jurisdiction and appears to conform to the General Plan.</p>								
<p><u>STRATEGIC PLAN.</u> The proposed action would help the Port achieve the following goal(s) and objective(s) in the Port’s Strategic Business Plan:</p> <table border="0"> <tr> <td><input type="checkbox"/> Grow Net Revenues</td> <td><input checked="" type="checkbox"/> Modernize and Maintain Infrastructure</td> </tr> <tr> <td><input type="checkbox"/> Improve Customer Service</td> <td><input type="checkbox"/> Pursue Employee Excellence</td> </tr> <tr> <td><input checked="" type="checkbox"/> Strengthen Safety and Security</td> <td><input checked="" type="checkbox"/> Serve Our Community</td> </tr> <tr> <td><input type="checkbox"/> Care for Our Environment</td> <td></td> </tr> </table>		<input type="checkbox"/> Grow Net Revenues	<input checked="" type="checkbox"/> Modernize and Maintain Infrastructure	<input type="checkbox"/> Improve Customer Service	<input type="checkbox"/> Pursue Employee Excellence	<input checked="" type="checkbox"/> Strengthen Safety and Security	<input checked="" type="checkbox"/> Serve Our Community	<input type="checkbox"/> Care for Our Environment	
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