

AGENDA REPORT

Resolution: Additional Budget Authorization and Contracting Approvals for the Upgrades to the International Arrivals Building, OAK. **(Aviation)**

MEETING DATE: 11/10/2016

AMOUNT: \$5,000,000 Additional Capital Budget
\$7,310,000 Additional Contracting Authority

PARTIES INVOLVED: Turner Construction Company, Inc., Oakland, CA,
Michael O'Brien, Senior Vice President

SUBMITTED BY: Chris Chan, Director of Engineering
Bryant Francis, Director of Aviation

APPROVED BY: J. Christopher Lytle, Executive Director

ACTION TYPE: Resolution

EXECUTIVE SUMMARY

Construction is underway on the International Arrivals (IAB) Upgrade Project. The work authorizations for the first three construction work packages have been executed and work is proceeding. The total projected costs of the IAB Upgrade Project are higher than the originally anticipated budget by about \$5 million based on receipt of the bid for the fourth and final work package. In order to complete the project without delay, Board authorization is requested to (a) increase the capital budget by \$5,000,000 for a total project budget of \$45 million, and (b) increase the Executive Director's contracting authority with Turner Construction by an aggregate total of \$7,310,000. PFC revenues are anticipated to pay for 82% of the project costs; however, full FAA authorization is still pending. To date, \$30 million of the \$45 million of project costs have been approved by the FAA at an eligibility rate of 82%. Approval for the remaining \$15 million continues to be anticipated to be received by February 2017.

BACKGROUND

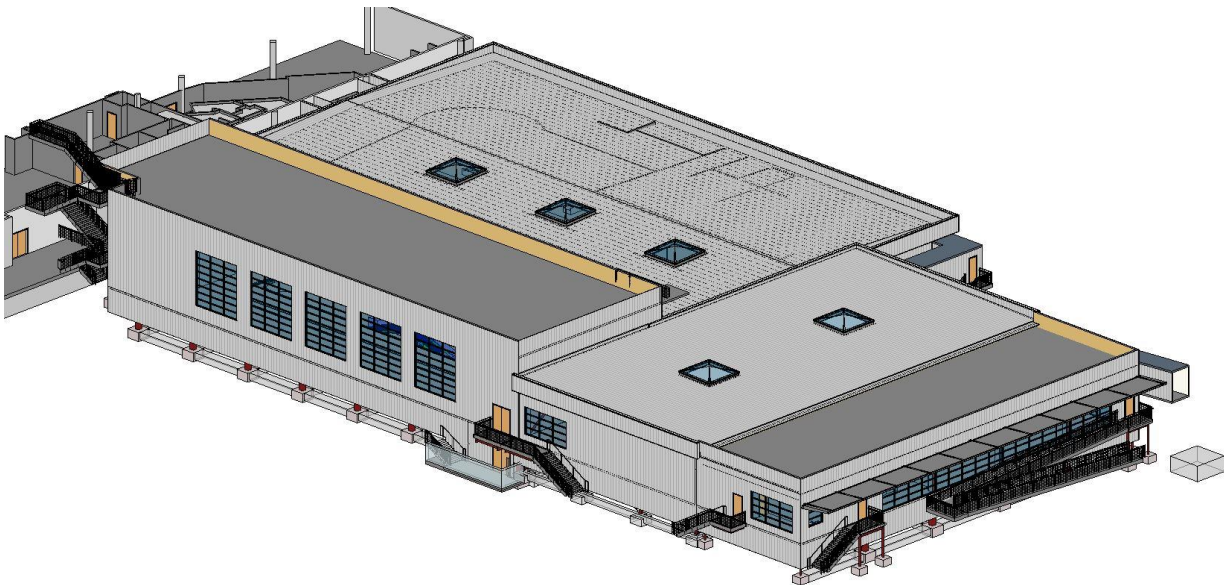
The IAB Upgrade Project is a critical infrastructure improvement required to accommodate existing and projected international service at Oakland International Airport (OAK). The improvements are intended to mitigate current deficiencies and

congestion. Currently only one aircraft and approximately 300 passengers per hour can be processed at a time (with full Custom Border Protection (CBP) staffing). The upgraded IAB facility is expected to accommodate up to 600 arriving passengers/hour (with full CBP staffing) and allow for the ability to service two aircraft simultaneously.

The scope of the work for the IAB Upgrade Project consists of the following:

- A building addition to accommodate a new redundant baggage carousel, upgrades to baggage conveyance system, and replacement of the existing baggage carousel.
- A building addition to accommodate an expanded queuing and processing area to improve the primary screening operations, including expanded use of Automatic Passport Control (APC) kiosks.
- Updated restroom facilities, seismic upgrades and building systems infrastructure upgrades.
- Modifications to the passenger boarding bridge, aircraft parking positions, fuel pits, adjacent apron and taxi lanes to accommodate the building additions.

The images below show: 1) the building additions, represented as the dark grey roofed areas and 2) interior renderings.





As discussed in previous Board letters, the IAB Upgrade Project is urgently needed to accommodate current and future demand in order to allow for more than one international flight to be processed at a time. International traffic has almost doubled from 163,000 passengers in 2013 to 314,300 passengers in 2015. Announcements have recently been made identifying new international service for OAK, including Southwest Airlines service to Los Cabos and Puerto Vallarta in February of 2017, and Norwegian adding service to Copenhagen in March of 2017 and Barcelona in June of 2017.

The prior Board authorizations for the IAB Upgrade Project include:

| Board Action Date | Budget Approval Amount | Purpose |
|--------------------------|---|---|
| January 29, 2015 | \$1 million | Approved budget for IAB Upgrade Project schematic design, CBP coordination, and engaging an on-call legal counsel to assist in development and implementation of the selection process for a new Contractor |
| June 11, 2015 | \$3 million | Approved budget for IAB Upgrade Project final design services |
| October 22, 2015 | n/a | Authorized staff to dispense with standard bidding procedures and issue Request for Qualifications (RFQ) for Construction Manager at Risk (CM@R) for IAB Upgrade Project construction services |
| February 11, 2016 | \$2 million | Approved selection of Turner Construction as the Construction Manager at Risk for the IAB Upgrade Project and delegated authority for the Executive Director to enter into contract with Turner. Also approved budget for pre-construction services and construction services for time critical enabling projects and activities associated with the IAB Upgrade Project |
| May 12, 2016 | \$34 million | Approved additional budget of \$34,000,000 (identified as the full remaining project cost) for construction of the IAB Upgrade Project. Authorized the Executive Director to negotiate and execute a contract amendment with Turner Construction for an additional contract amount that shall not exceed \$28,400,000. Authorized the Executive Director to negotiate and execute a supplemental agreement with AE3 Partners for design and construction management support services for an additional contract amount that shall not exceed \$700,000. |
| | \$40 million (total project budget as of May 2016) | |

The purpose of this Board letter is to:

1. Request additional budget authorization of \$5.0 million (for a new total project budget of \$45 million) to execute Work Package #4 and complete construction of the IAB Upgrade Project, and
2. Request additional contract authority up to \$7,310,000 with Turner Construction in order to execute Work package #4.

ANALYSIS

Design, Construction and Project Budget

As described to the Board on May 12, 2016, design and construction of the IAB Upgrade Project has been broken out into four (4) work packages to allow certain critical path elements to go into construction while the final design for the project was still ongoing in order to expedite project delivery. As a result, Port staff recommended and the Board authorized the project budget based on estimates prepared by Port staff prior to completing design, prior to bidding the complete project scope and prior to receiving a final guaranteed maximum price (GMP).

The Port has executed contracts and directed the contractor to proceed with construction for three of the four packages. Project bids (costs) for these work packages came in about 15% over the budget estimates. This is attributed largely to unexpected work to seismically retrofit the existing IAB, site work associated with expanding the IAB Building, and integration of the roofing system for the existing and new building components.

After receiving the GMP for work package #3 in July 2016, Port staff estimated that the bid for the final Work Package #4 may still come in under the original contracting authority approved by the Board at the May 12, 2016 Board Meeting. However, there was some risk that the cost for the remaining construction work for the IAB Upgrade Project under this work package could be higher than estimated with a potential to exceed the total project budget of \$40,000,000, especially when taking into consideration that the final design for work package #4 was only 50% complete and the higher than expected bid prices for work packages #1 through #3.

During final design of Work Package #4 Port staff worked closely with the design team and Turner Construction to evaluate the remaining design with the goal of aligning the scope of the final design with the budget, including eliminating non-essential features and modifying design elements to meet programmatic requirement in a cost effective manner. The design documents for the IAB Upgrade Project for the fourth and final work package have now been completed

The bids received for Work Package #4 are higher than anticipated. In order to complete the project, an increase in the project budget and contracting authority is necessary. Based on the actual GMP received for Work Package #4, the current authorized project budget is exceeded by \$3,252,000 and the authorized contract authority is exceeded by \$5,562,000. In addition, Staff recommends including an allowance of 1,748,000 to both the budget authorization and contract authority to cover unforeseen conditions, including the possibility that the contractor's working hours may need to be modified if additional international flights are added during the construction period, resulting in a net increase to the budget authority of \$5 million (Table 1) and contract authority of \$7,310,000 (Table 2).

TABLE 1
Revised Total Project Budget

| IAB Scope Elements | Previously Approved Project Budget | Proposed Adjustment (current cost information) | Total Proposed Project Budget |
|-------------------------------|---|---|--------------------------------------|
| Consultant/Other | \$6,400,000 | (\$1,667,000) | \$4,733,000 |
| Construction | 30,400,000 | 7,310,000 | 37,710,000 |
| OCIP/MAPLA | 1,200,000 | (11,000) | 1,189,000 |
| Port Labor and Labor Overhead | 2,000,000 | (632,000) | 1,368,000 |
| Total Budget | \$40,000,000 | \$5,000,000 | \$45,000,000 |

Staff recommends that there be flexibility between the cost categories in terms of balancing overages with under runs as long as the total project cost does not exceed \$45 million.

TABLE 2
Revised Total Contract Authority with Turner Construction

| Turner Contract Authorizations | Amount |
|---|---------------------|
| Turner Authorizations to date (Preconstruction through Work Package /GMP #3) | \$19,762,000 |
| Work Package / GMP #4 (pending) | 16,200,000 |
| Change Order Allowance (to be determined, if necessary) | 1,748,000 |
| Total Contract Authority required (a) | \$37,710,000 |
| Previous Board Authorization (b) | 30,400,000 |
| Additional Contract Authority Required (a-b) | \$7,310,000 |

The higher than anticipated costs can primarily be attributed to a significant escalation of construction costs throughout the Bay Area. Given the volume of work in the Bay Area, subcontractors are being more selective in pursuing work, with some trades bidding on fewer projects and/or providing bids at higher amounts when the subcontractors do submit bids, thereby increasing costs. Furthermore, in order to accommodate ongoing CBP processing within a fully functional IAB during construction, project specific phasing, work restrictions, and temporary conditions have contributed to higher prices. Finally, additional security and communications systems and equipment are needed to comply with CBP design standards, but which were not included in the original estimates, have also contributed to the additional costs.

It is essential at this time to execute Work Package #4 on or before November 28, 2016 in order to continue progressing on the aggressive schedule that provides the Port the best opportunity to deliver the project 4 to 5 months sooner than a traditional delivery method (estimated to be in Fall of 2017).

Non-Discrimination and Small Local Business Utilization Status

The Port's Non-Discrimination and Small Local Business Utilization Policy (NDSLBU) for Alternative Project Delivery Approaches (APDA) applies to this project which involves CM@R evaluation and engagement at multiple points over the course of the project and more specifically with the Local Business Utilization (LBU) level requiring a robust reporting and monitoring of business and workforce attainment throughout the life of the project.

Turner has committed to 70% LBU for this project of which at least 17% will be local small (SBE) and very small business (VSBE) participation. Additionally, Turner will develop three new mentor protégé relationships by pairing a new or smaller entity with a more experienced contractor for technical expertise and guidance.

To achieve the policy goals set forth by the Port in utilizing the services of local businesses on Port projects, Turner has developed a comprehensive Outreach Implementation Plan (OIP) for this project in order to further its relationships with the community at large. In this program, Turner is utilizing a tiered approach: Community Involvement; Development of a Master Contact List (Port's certified database, Turner prequalified subcontractors, Turner School graduates, community based organizations and newly licensed contractors); Subcontractor and Workforce Outreach; Business Utilization Strategies; Prequalification and Prequalification Evaluation; Tracking Payments; and Reporting and Communication. Turner is committed to partnering with their subconsultants and subcontractors to maximize their use and development of local resources. Finally, Turner is required to monitor and enforce the requirements of the Maritime and Aviation Project Labor Agreement (MAPLA) and work closely with Port staff and Davillier-Sloan Inc. (the Port's MAPLA Administrator).

In accordance with requirements spelled out in their contract and the NDSLBP, the OIP has provided detailed objectives and deliverables necessary to achieve the overall commitment to the community. The OIP should be considered a living document, as modifications will be necessary during their ongoing dialogue with the Port, community, and other key stakeholders. It is their intention to expand their outreach efforts that are not just restricted to the plans or policies set forth in the OIP.

Turner's Community Affairs Director will manage the OIP and communicate with the Port and Davillier-Sloan to ensure that they are meeting the local business utilization and workforce goals set for this project. In addition to the monthly reports required with each pay application, quarterly reports will also serve as an ongoing measurement of the OIP objectives and deliverables.

Turner and Port staff conducted an outreach meeting on May 9th to inform and build the construction community interest in the upcoming construction package opportunities detailed above. All parties on the Master Contact List (700+) were invited using email blasts, mailings, newsletters and advertising on the Port's website. Specific pre-bid meetings were held on May 25th and August 31st (for Packages #3 and #4, respectively) where major project milestones, bid package scopes and reporting requirements were covered.

Based on the accepted GMP's the projected LBU value for the IAB Upgrade Project is 72%, including 24% local small (SBE) and very small business (VSBE) participation, exceeding the commitment of 70% LBU and 17% SBE/VSBE.

BUDGET AND STAFFING

At the May 12, 2016 Board meeting, the Board approved a \$40 million budget for the IAB Upgrade Project. The Port intends to pay for the project with PFC revenues at an eligibility rate of 82%, and the remaining 18% with Port cash. At the time the Port's PFC application was submitted, project costs were estimated to total \$30 million, as a result only \$30 million of the \$40 million of project costs had been approved by the FAA by May 2016. Given the PFC approval process and the timing of receiving the cost of the final work package, Port staff anticipated receiving approval for the total project costs by February 2017. The timing, risks and mitigations for receiving FAA PFC approval for the increased project costs have not changed since May 2016, and are described again, later in this section.

As described in the Analysis section, the project costs since May 2016 has increased from \$40 million to \$45 million. The additional \$5 million budget authority is anticipated to be

expended in FY 2017 and PFC revenues are anticipated to pay for 82%, or \$4.1 million of these additional costs. The remaining \$0.9 million of cash was not anticipated in the Port's financial planning or 5-year Capital Improvement Plan, and will be accommodated by deferring another future Airport project if necessary. The total anticipated funding sources and FAA approvals received to date are as follows:

Funding Sources and FAA Approvals
(\$ millions)

| Funding Source | Board-Approved Budget | Additional Budget | Total Project Costs | FAA Approved Project Costs to Date (add'l approval pending) |
|---------------------------|------------------------------|--------------------------|----------------------------|--|
| PFC Revenues ¹ | \$32.8 | \$4.1 | \$36.9 | \$24.7 |
| Port Cash | 7.2 | 0.9 | 8.1 | 5.3 |
| Total | \$40.0 | \$5.0 | \$45.0 | \$30.0 |

A PFC Amendment will be submitted to cover the project costs in excess of the approved amount and is anticipated to be approved as the FAA has already determined project eligibility (82%) in the application previously approved. The application is expected to cover the estimated \$15 million cost increase with an anticipated \$12.2 million of PFCs approved based on the 82% eligibility determination in the approved application.

Port staff has been preparing the draft amendment and are in consultation with the FAA regarding the PFC #17 Amendment. The Port will return to the Board in December for approval to submit the PFC application and anticipate that the Amendment will fall under the FAA's Administrative Amendment requirements. Under the Administrative Amendment guidelines, the FAA will be required to respond within 30 days of submission. It is anticipated that the Amendment will be submitted in December 2016, and a decision would be required from the FAA by the end of January 2017.

While Port staff anticipates receiving the PFC Amendment approval by February 2017, provided below are the potential consequences and mitigations in the unlikely event that the amendment approval process (i) is delayed, (ii) approved at a funding level lower than 82%, or even (iii) denied.

Amendment is Delayed. While the FAA Amendment process has prescribed timeframes, it is possible that the FAA may request the courtesy of more time due to unforeseen

¹ The Port's Commercial Paper program will be used in the interim to fund construction costs, as the PFC-eligible project expenditures for Terminal 1 renovations, North Runway Safety Area improvement and Runway 12-30 rehabilitation exceed PFC collections. Current financial planning projections include approximately \$100-110 million of debt to be issued, payable by future PFC revenues to fund the Terminal 1 renovations, including the IAB Upgrade Project, and the airfield projects.

circumstances. Port staff, however, will be held accountable for submitting the PFC Amendment in a timely fashion and proactively managing the process. Although the Port's commercial paper program will continue to be utilized to provide the interim funding, the Port's general revenues are the sole source of repayment, as PFC revenues cannot be used until approval is received. Embarking on construction prior to PFC approval for the full estimated construction cost could have a material negative impact on the Port's finances in the unlikely event that the Port's commercial paper program is accelerated (needs to be repaid quickly).

Amendment is Approved at a Lower Level or Denied. While Port staff believes that this is very unlikely, given the PFC rules and regulations, to the extent that the Port's amendment to cover the remaining anticipated \$15 million of costs is at a lower reimbursement percentage than 82% or denied, the Port will have no choice but to delay other cash funded projects at the Airport until Port financial forecasts are improved. A delay in construction of other critical projects could negatively impact Airport operations and finances.

No changes in staffing is needed as a result of the work requested to be authorized in this Board agenda.

MARITIME AVIATION PROJECT LABOR AGREEMENT (MAPLA)

MAPLA will apply to this contract for all on-site construction work, the inspection and testing of the work as specifically included in MAPLA, and all other work covered by MAPLA. MAPLA does not apply to work performed by non-manual employees and all other work specifically exempted by MAPLA.

STRATEGIC PLAN

The action described herein would help the Port achieve the following goals and objectives in the Port's Strategic Plan (<http://www.portoakland.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 B: Maintain and Aggressively Grow Core Businesses

- Goal B: Objective 1: Retain existing customers and tenants.
- Goal B: Objective 2: Market strategically and aggressively to attract new customers and tenants.

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"), living wage requirements may apply to the professional services of this contract, if the contract is more than \$50,000 and the service provider employs 21 or more employees. In addition, construction prevailing wage requirements will apply if the project moves to the construction phase.

ENVIRONMENTAL

The Port is required to conduct an environmental impact analysis pursuant to the California Environmental Quality Act (CEQA) as part of all of its project development, approval, and entitlement processes. In 1997, the Port proposed an Airport Development Program (ADP) to improve OAK facilities and to relieve existing and projected future congestion to accommodate forecasted air passenger and air cargo activity. The Port prepared an Environmental Impact Report (EIR) for the ADP that was certified and adopted by the Board of Port Commissioners (Board) on December 16, 1997, through Board Resolution No. 97376. The Board later adopted a supplemental EIR (SEIR) in 1999 (Resolution No. 99623), and a second supplemental EIR in 2003 (Resolution No. 03345).

The EIR/SEIRs evaluated upgrades and expansion of T1, including IAB improvements. Therefore, the design upgrades to the IAB described in this report, such as expansions to an existing building, adding life safety measures, upgrading system equipment, and upgrading passenger service amenities such as restrooms, are within the scope of the ADP and were evaluated under CEQA under the existing EIR/SEIRs. On June 11, 2015, the Board Authorized Port staff to proceed with project design for the IAB. Subsequently, a Notice of Determination was filed with the Alameda County Clerk Offices pursuant to CEQA Guidelines Section 15094.

CEQA Guidelines Section 15378(2) states that "Project" means the whole of an action that has a potential for resulting in either direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The general rule in Section 15061(b)(3) of the Guidelines additionally states that CEQA applies only to activities that have a potential for causing a significant effect on the environment.

Because it can be seen with certainty that there is no possibility that entering into a contract with a construction manager at risk for pre-construction and construction services as described above for the IAB has a significant effect on the environment, the action is not a "Project" under CEQA, and is not subject to CEQA under the General Rule Exclusion.

GENERAL PLAN

This portion of project is for professional services will not directly include any alteration of property. Development projects that result from these professional services will be subject to separate findings of conformity with the City of Oakland General Plan in accordance with Section 727 of the Charter.

OWNER-CONTROLLED INSURANCE PROGRAM (OCIP)/PROFESSIONAL LIABILITY INSURANCE PROGRAM (PLIP)

As the construction project is a Construction Manager (CM@Risk) capital improvement project, the applicable Owner Controlled Insurance Program (OCIP) coverages and provisions and the applicable Professional Liability Insurance Program (PLIP) coverages and provisions apply.

OPTIONS

The following are options for the Board's consideration:

1. Authorize additional project budget of \$5,000,000 for a total project budget of \$45,000,000 and authorize the execution of a contract amendment with Turner Construction Company for an additional contract amount that shall not exceed \$7,310,000. This is the recommended option.
2. Do not authorize additional budget and associated contracting authority and re-scope Work Package #4 so that it remains within the original budget authorization. This would cause significant delays to the delivery of this project and may not result in a fully functional facility that can meet all of the operational requirements.

RECOMMENDATION

Staff recommends that the Board:

Authorize additional project budget of \$5,000,000 for a total project budget of \$45,000,000; and authorize the execution of a contract amendment with Turner Construction Company for an additional contract amount that shall not exceed \$7,310,000.