

AGENDA REPORT

Resolution: Approval of an Additional \$1,840,000 in Project Budget for Costs Associated with the Raising of Cranes XC14, 15, 16 and 17 at the Oakland International Container Terminal, for a Total Budget of \$16,640,000. **(Maritime/Engineering)**

MEETING DATE: 5/23/2019

AMOUNT: \$1.84 million Additional Project Budget
Capital Expenditure

PARTIES INVOLVED: SSA Terminals (Oakland), LLC, Seattle, WA
Ed DeNike, Chief Operating Officer

SUBMITTED BY: John C. Driscoll, Director of Maritime
Robert Andrews, Acting Director of Engineering

APPROVED BY: J. Christopher Lytle, Executive Director

ACTION TYPE: Resolution

EXECUTIVE SUMMARY

This action would authorize an additional \$1,840,000 in project budget to complete the raising of four (4) Port-owned cranes (XC14, 15, 16, and 17) located at the Oakland International Container Terminal. This approval will increase the total project budget from \$14,800,000 to \$16,640,000. The increase in budget is due to higher-than-anticipated levels of oversight by Port staff and consultants during fabrication, construction, and commissioning of the raised cranes.

BACKGROUND

SSA Terminals, LLC and its sub-assignee, SSA Terminals (Oakland), LLC, (collectively, SSAT) operates the Oakland International Container Terminal (OICT), consisting of Berths 55-59, located contiguously in the Port's Middle Harbor Area. SSAT operates the terminal pursuant to two separate Non-Exclusive Preferential Assignment Agreements (NEPAAs, or Leases). There are currently ten (10) Port-owned container cranes at OICT, all of which are actively used by SSAT.

These cranes were placed into service in the early 2000s. Cranes tall enough to service the larger ships calling at the Port are vital to maritime operations. To remain competitive and maximize the use of existing Port assets, SSAT and the Port identified a need to raise cranes at OICT. The parties agreed to work in partnership to raise four cranes in the immediate term (the Project). The Project was a major undertaking by the parties, and a successful cost-effective alternative to purchasing new cranes (a new crane costs about \$10 million). The

Port would have been unable to execute the Project on the same schedule without the participation of SSAT; they provided the upfront capital and managed the Project day-to-day.

The parties' intent and agreement to implement the Project was formalized in certain Lease amendments approved by the Board in February 2017. The lease amendments require that:

- SSAT will fabricate, install, and commission the raising of Port-owned cranes XC14, XC15, XC16 and XC17 (SSAT completed this work in 2018).
- The Port will reimburse SSAT for actual costs incurred, up to a maximum of \$3.5 million per crane, or a maximum total of \$14 million.
- SSAT will reimburse the Port the \$14 million expenditure on a repayment schedule that extends through 2027.

The Board's approval included an overall budget of \$14.8 million, which included (a) payments to SSAT of \$14 million (4 cranes at \$3.5 million each), and (b) limited Port oversight of the work in the amount of \$800,000 (collectively, the Project). To date, a total of approximately \$13.11 million have been expended, and the total Project cost is forecasted to be \$16.64 million, which is \$1.84 million over budget.

ANALYSIS

Because the cranes are highly specialized assets, owned by the Port, Port staff intended to provide Quality Assurance (QA) oversight of the fabrication and installation of the Project. This consisted of Port staff and consultants who would provide QA inspection at the fabrication facilities in China as well as on-site installation in Oakland. QA inspection typically consists of limited inspection oversight intended to confirm the results of a Quality Control (QC) inspection, which itself is a very comprehensive work effort. QC inspection would normally be performed and documented by the contractor, or by SSAT in this case.

QA inspection of the fabrication revealed that neither SSAT nor its contractor were performing QC oversight. Significant issues with the welding procedures were discovered that could have resulted in defective welds; these issues would not have been apparent at the time of delivery. Following discussion with SSAT and its contractor, the Port increased its inspection oversight and took actions to correct the welding deficiencies. Furthermore, the fabrication and installation took significantly longer than the schedule provided by SSAT - fabrication time tripled to 12 months and the onsite installation was extended several months. The Port's increased level of effort for inspection and the extended project schedule led to a large cost overrun for Port labor and consultants.

Port staff received approval to supplement its consultant contracts for oversight of the crane raise projects at the Board's regularly scheduled meeting held on January 25, 2018.

However, this action inadvertently did not include the authority to increase the budget accordingly. This was Staff's oversight.

To date approximately \$13.11 million has been spent on this project; consisting of \$10.5 million in reimbursement to SSAT and \$2.61 million in Port staff, consultant and miscellaneous costs. In addition, the Port is obligated to reimburse SSAT for the final crane at a cost of \$3.5 million, and staff expects to spend an additional \$30,000 in oversight and closeout of the Project. Therefore, the total Project cost is projected at \$16.64 million, which is \$1.84 million over the approved budget, as summarized in the table below.

Description	Original Budget	Total To-Date Expenditures	Remaining Budget	Remaining Expenditures (Projected)	Additional Budget Request	Total Project Budget
Reimbursement to SSAT	\$14,000,000	\$10,500,000	\$3,500,000	\$3,500,000	\$0	\$14,000,000
Staff & Consultant Costs	\$800,000	\$2,610,000	(\$1,810,000)	\$30,000	\$1,840,000	\$2,640,000
Total	\$14,800,000	\$13,110,000	\$1,690,000	\$3,530,000	\$1,840,000	\$16,640,000

Staff requested the Board's approval to increase the Project budget at its February 28, 2019 meeting. The Board deferred this item, and requested Staff to contact SSAT to discuss sharing in the cost overruns given the source of the additional costs. As directed, Staff discussed cost-sharing with SSAT. SSAT declined to participate in the cost overruns, citing that the existing Lease terms do not obligate SSAT to pay for such cost overruns, and that SSAT also incurred \$750,000 in non-reimbursable costs that exceeded their budget to complete the Project.

The Project oversight costs incurred by the Port were necessary and appropriate given the nature of the Project and the potential impacts to the Port if the work was not properly performed. Staff has reviewed and confirmed the accuracy of Port Labor and consultant hours expended over the course of the Project.

The Project was the first of its kind at the Port – a tenant performing a major capital improvement on a high-value Port asset critical to operations. Staff learned a great deal through the Project, and based on that experience, has identified the need to (a) establish and assign specific QA and QC responsibilities prior to commencement of future capital improvement projects where the Port will not be directly responsible to perform the work; (b) clearly set forth the tenant's and Port's respective roles in ensuring oversight to the Port's satisfaction; and (c) better coordinate among Port staff, particularly where the project budget has technical (i.e., QA/QC) elements and non-technical elements (i.e., reimbursements to the

tenant). Given all this, Staff expects to be able to more accurately budget such projects in the future.

BUDGET & STAFFING

The current Project budget authorized by the Board is \$14.80 million. Staff requests an additional \$1.84 million, which would increase the total Project budget to \$16.64 million, as described above. The Project is included in the Port's 5-year Capital Improvement Plan (CIP). No amendments to the FY19 CIP are necessary.

There are no impacts to staffing.

MARITIME AVIATION PROJECT LABOR AGREEMENT (MAPLA)

The requested action does not fall within the scope of the Port of Oakland Maritime and Aviation Project Labor Agreement (MAPLA) and the provisions of the MAPLA do not apply. However, MAPLA provisions were applicable to the Project.

STRATEGIC PLAN

The action described herein would help the Port achieve the following goals and objectives in the Port's Strategic Business Plan (2018-2022).

<https://www.portofoakland.com/wp-content/uploads/Port-of-Oakland-Strategic-Plan.pdf>

- Goal: Modernize and Maintain Infrastructure

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 because the requested action is not an agreement, contract, lease, or request to provide financial assistance within the meaning of the Living Wage Regulations.

SUSTAINABILITY

Port staff have reviewed the Port's 2000 Sustainability Policy and did not complete the Sustainability Opportunities Assessment Form. There are no sustainability opportunities related to this proposed action because it does not involve a development project, purchasing of equipment, or operations that presents sustainability opportunities.

ENVIRONMENTAL

This action was reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA). The general rule in Section 15061(b)(3) of the CEQA Guidelines states that CEQA applies only to activities that have a potential for causing a significant effect on the

environment. It can be seen with certainty that there is no possibility that this action will result in a physical change in the environment, and therefore this action is not subject to CEQA and no further environmental review is required.

GENERAL PLAN

This action does not change the use of any existing facility, make alterations to an existing facility, or create a new facility; therefore, a General Plan conformity determination pursuant to Section 727 of the City of Oakland Charter is not required.

OWNER-CONTROLLED INSURANCE PROGRAM (OCIP)

Although the construction project and scope are funded under the Capital Improvement Plan, the Owner Controlled Insurance Program (OCIP) does not apply because the described activities are tenant projects, not Port projects.

OPTIONS

Staff has identified the following options for the Board's consideration:

1. Authorize an additional \$1.84 million to increase the total Project budget for the B55-59 Oakland International Container Terminal Crane Raising (XC14-17) to \$16.64 million. This is the recommended action.
2. Do not authorize an additional \$1.84 million to the total Project budget. Without this additional authority, Staff would not be able to pay SSAT the full \$3.5 million owed for the raise of XC17 (we would be able to pay only \$1.66 million). The Port would not be able to meet the terms of the Lease with SSAT, would have to negotiate Lease modifications with SSAT, and may run the risk of an adversarial position with SSAT.

RECOMMENDATION

Adopt a resolution authorizing an additional \$1.84 million to the total budget for the Oakland International Container Terminal Crane Raising (XC14-17) Project, thereby increasing the total Project budget to \$16.64 million.