

AGENDA REPORT

Resolution: For the Moving Walkway Removal and Restoration Project: (1) Approve Additional Project Budget of \$685,000 for a Not-To-Exceed Total Project Budget of \$5,720,000 and (2) Authorize the Executive Director to Execute a Change Order with Turner Construction Company, Inc. for Construction Manager at Risk (CM@R) Construction Services for an Amount Not to Exceed \$610,000. **(Engineering) / (Aviation)**

MEETING DATE: 7/25/2019

AMOUNT: \$685,000 Capital Expenditure (FY 2019-FY 2020)
\$610,000 Contracting Authority

PARTIES INVOLVED: Turner Construction Company, Inc., Oakland, CA
Lisa Ballantyne, General Manager

SUBMITTED BY: Robert Andrews, Acting Director of Engineering
Bryant L. Francis C.M., Director of Aviation

APPROVED BY: J. Christopher Lytle, Executive Director

ACTION TYPE: Resolution

EXECUTIVE SUMMARY

The purpose of this Agenda Report is to request Board approval of additional project budget of \$685,000 and related contracting authority for the Moving Walkway Removal and Restoration Project for unanticipated moving walkway demolition costs due to unforeseen Cal-OSHA requirements. Staff has suspended work on the project pending additional Board approval

BACKGROUND

On February 28, 2019 by Resolution 19-12, the Board approved a project budget of \$5,035,000, and contracting authority in the amount up to \$3,475,000 for the Moving Walkway Removal and Restoration Project (Project) design and construction phases. The Project has been identified as a high-priority terminal improvement project that will make additional area currently used for the moving walkways available for circulation for passenger amenities and revenue generation.

A Notice to Proceed for the construction was issued to Turner Construction Company, Inc. (Turner) in late-April 2019. Construction activities consist of building a construction barrier, removal of the moving walkway conveyor systems and restoration of the terminal corridors including filling in the conveyor wellway, replacement of the flooring and installation of utility conduits for the new concessions. To date, Turner has built a construction wall around each work area. See Figure 1 and 2 below.



Figure 1. Moving Walkway Removal Construction Wall in Terminal 2 (M-367).



Figure 2. Moving Walkway Removal Construction Wall in Terminal 1 (M-152).

Prior to commencing with the removal of the walkways, Turner and the Port were informed by Cal-OSHA that the complete removal of the walkway conveyance system can only be performed by Certified Competent Conveyance Mechanics (CCCM). This was not the understanding of the Port or the contractor at the time of bidding for the project and will cost additional money to accomplish.

ANALYSIS

The moving walkway removal consists of decommissioning to render the moving walkways inoperable, followed by demolition. Turner had reasonably interpreted Cal-OSHA requirements to require that a Certified Qualified Conveyance Company (CQCC) decommission the walkway mechanical systems, but that following decommissioning, a demolition contractor would be qualified to remove the remainder of the walkways. Their bid Guaranteed Maximum Price (GMP) was therefore based on using ThyssenKrupp (a CQCC) for the decommissioning only, and a demolition contractor (who is not a CQCC) for the moving walkway demolition.

As the project team (Turner, subcontractors and ThyssenKrupp) initiated decommissioning, they submitted a required letter of intent to the State of California Department of Industrial Relations, Division of Occupational Safety and Health (Cal-OSHA), indicating their plans for the decommissioning and removal. Cal-OSHA then notified the project team that:

“if the portion of the building wherein the moving walks lie is to be re-purposed, you must allow only certified CCCM’s (Certified Competent Conveyance Mechanics) or TCCCM’s (Temporary Certified Competent Conveyance Mechanics) to dismantle the walks down to the supports (trusses) and remove the trusses.”

Port staff confirmed that this same requirement has been unexpectedly asserted at other airports in the Bay Area recently and that Cal-OSHA will not be flexible with regards to this requirement.

In order to comply with this requirement Turner will have to subcontract with an appropriately certified contractor to perform the work. A revised GMP has been developed to reflect an additional cost of \$610,000 to utilize the more expensive certified conveyance contractor. The additional cost is due to higher labor rates and an extended schedule due to a smaller crew size.

Due to the extended schedule, Port staff is also requesting additional budget for its existing on-call Construction Management Services consultant to provide support during the duration of the project.

Although the original GMP included allowances and contingency budget of approximately \$480,000, this is not sufficient to address this significant, unforeseen change and necessitated a revised GMP and additional budget. Under the GMP the CM@R contractor assumes the risks of other unknown site conditions and changes using the GMP contingency budget to address those costs. The revised GMP includes allowances and contingency budget of approximately \$590,000.

This Agenda report therefore requests budget approval of an additional \$685,000 for the Moving Walkway Removal and Restoration Project. The requested additional budget includes up to \$610,000 in additional contract authority for Turner Construction, and \$75,000 in additional consultant Construction Management Services budget for a new total project budget of \$5,720,000.

Staff has suspended work on the project pending Board approval. If the Board approves the recommendations, then staff will work with Turner to recover lost time, but anticipates being substantially complete in spring 2020, a five-month delay.

This delay may have a schedule impact on the new food and beverage units that are part of the FY2020 Food & Beverage Concession Program, Subway (subtenant of High Flying Foods) and The District (licensed by SSP America), that are slated for construction in the restored moving walkway area in Terminal 2. The new concessions area was scheduled to be available for construction in fall 2019, but that date has now been pushed out four months to early spring 2020. This delay should not impact The District, but will potentially result in a two-month delay to Subway; it is anticipated that both concessions units will be open by late spring 2020.

BUDGET & STAFFING

The total project cost breakdown is presented in Table 1 below. This project is included in the Port's FY 2020 Capital Budget at the previously approved budget levels. Port staff anticipates that the additional budget can be absorbed into the overall FY 2020 Pipeline Capital Budget, given other contingencies included in the recently approved budget. This project is anticipated to be funded with Port cash. A portion of the expenditure will be repaid by the airlines over time through the terminal rental rate. There is no anticipated budget or staffing impact associated with this Board action.

Table 1. Moving Walkway Removal and Restoration Project Budget

| Description | Previous Approved Total Budget | Additional Requested Construction Budget | Revised Total Project Budget |
|----------------------------------|--------------------------------|--|------------------------------|
| Consultants ¹ | \$700,000 | \$75,000 | \$775,000 ⁴ |
| Construction ² | \$3,675,000 | \$610,000 | \$4,285,000 |
| Port Labor | \$500,000 | --- | \$500,000 ⁴ |
| Other Related Costs ³ | \$160,000 | --- | \$160,000 ⁴ |
| TOTAL | \$5,035,000 | \$685,000 | \$5,720,000 |

¹Consultant Costs include Construction Management Services, Design Services during Construction, Materials Testing, and Special Testing.

²Construction Costs include Preconstruction CM@R Services and the contract GMP (which includes a contingency budget of approximately \$590,000).

³Other Costs include permitting, MAPLA, , and OCIP.

⁴Staff may exceed the individual category cost of Port Labor, Consultants and Other Related Costs if i) the effort is needed and ii) the sum of these three category costs does not exceed the sum of these three category costs as shown in Table 1.

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 Business Plan (2018-2022).

- Goal: Grow Net Revenues
- Goal: Improve Customer Service
- 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 to the professional services agreement as the service provider does not employ 21 or more employees working on Port-related work. However, the service provider will be required to certify that should living wage obligations become applicable, the service provider shall comply with the Living Wage Regulations. In addition, construction prevailing wage requirements apply.

SUSTAINABILITY

Port staff have reviewed the Port's 2000 Sustainability Policy. The subject actions related to the removal of the existing moving walkways do not enhance the previously stated benefits of reducing the energy usage.

ENVIRONMENTAL

The Port has determined that this project is categorically exempt from the California Environmental Quality Act (CEQA) Guidelines pursuant to Section 15301, Existing Facilities. CEQA does not apply to the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

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

The following are options for the Board's consideration:

- 1) Approve the action as outlined in this agenda report. This is the recommended action.

- 2) Direct staff to not proceed with the remaining work associated with the Moving Walkway Removal and Restoration Project and restore the area to a pre-construction state. This option is not recommended as the cost to complete the work in the future will be higher due to rework. This will also negatively impact revenues for the two new concession units.

RECOMMENDATION

Staff recommends the following actions:

- (1) Approve Additional Budget of \$685,000 for the Moving Walkway Removal and Restoration Project, and
- (2) Authorize the Executive Director to Execute a Change Order with Turner Construction Company, Inc. for Construction Manager at Risk (CM@R) Construction Services for an Amount Not to Exceed Not to Exceed \$610,000 for the Moving Walkway Removal and Restoration Project.