



## MEMORANDUM

December 6, 2024

**TO:** MEMBERS, PORT COMMISSION  
Hon. Kimberly Brandon, President  
Hon. Gail Gilman, Vice President  
Hon. Willie Adams  
Hon. Stephen Engblom  
Hon. Steven Lee

**FROM:** Elaine Forbes  
Executive Director 

**SUBJECT:** Request for authorization to modify Construction Contract No. 2861, WRP Wharf J9 Replacement Project, Phase 1 – Float & Gangway, to extend the substantial completion date and increase the contract value.

**DIRECTOR'S RECOMMENDATION:** Approve the Attached Resolution No. 24-63

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### EXECUTIVE SUMMARY

Port staff requests that the Port Commission authorize a contract modification of Construction Contract No. 2861, WRP Wharf J9 Replacement Project, Phase 1 – Float & Gangway (the "Project"), to extend the substantial completion date by an additional 87 calendar days and increase the authorized not-to-exceed contract amount from \$3,913,118 to \$4,213,118 to complete contract work and time-sensitive repairs in the vicinity. This project is an installation of a new float and gangway in front of the red-tagged Wharf J9 to provide a dock to support the Retail Fish Sales Program (off-the-boat fish sales) and accessible berthing in the interim condition before Phase 2 of the Wharf J9 Replacement project is constructed. Construction is being performed by an LBE general contractor based in Bayview, Yerba Buena Engineering and Construction, Inc. During construction, structural pile issues posing public safety risk were identified at the adjacent Wharf J8 by the Contractor team and by Port staff.

The requested time extension is in addition to the time extension of 18 days that Port staff are authorized to grant without commission approval (10% of the original contract

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duration). Under Section 6.22 of the San Francisco Administrative Code, time extensions in excess of 10% of the original contract duration are subject to Port Commission approval. The original contract provided a duration of 186 calendar days for substantial completion of the work. A total of 291 days is estimated for substantial completion of the work due to unavoidable delays beyond the control of the contractor, including delays in Port dredging in this location, and to complete the time-sensitive repair work at the adjacent Wharf J8.

The requested \$300,000 increase to the authorized not-to-exceed contract value is to account for time-sensitive repair work to the adjacent structure at the site. All work authorized thus far is within the authorized 10% contingency amount. However, additional time-sensitive repair work at Wharf J8, if authorized, would likely exceed the authorized amount.

## **STRATEGIC OBJECTIVE**

This Project supports the goals of the Port's Strategic Plan as follows:

### Economic Recovery:

This Project supports commercial fishers by providing improved facilities for the Retail Fish Sales Program (off-the-boat fish sales) that, in turn, attract visitors to Fisherman's Wharf. The Port collects annual permit fees from commercial fishers participating in the Retail Fish Sales Program.

### Equity:

This Project will provide an equitable and accessible dock for commercial fisher programs that currently use stern tie berths with ladder access to the wharf that has limited accessibility. This Project will improve ADA access to the wharf.

### Resilience:

This Project will deliver the float and gangway component of a larger planned WRP project that will address sea level rise and seismic risks. The larger project will replace the existing Wharf J9 seawall and wharf structure with a resilient, accessible, and adaptable wharf structure incorporating a floating berth.

### Evolution:

This Project responds to the changing needs of the public and Port in Fisherman's Wharf.

## **BACKGROUND**

Port Commission Resolution 24-12 on February 27, 2024, authorized Port staff to award construction Contract No. 2861, WRP Wharf J9 Replacement Project, Phase 1 – Float & Gangway, to Yerba Buena Engineering and Construction, Inc. ("Yerba Buena"), the lowest responsive and responsible bidder, for \$3,557,380 and further authorized staff to increase the Contract amount, as necessary for unanticipated contingencies, by an additional amount of \$355,738 (10% of \$3,557,380) through contract modification or change order. The scope of work included fabricating and installing a 270-foot-long concrete float, an 80-foot-long aluminum gangway, platforms linking the gangway to the existing Al Scoma Way

bridge, and utility work to supply water and power to the float. Exhibit A presents the Project location.

The Contract Notice to Proceed was issued on April 29, 2024, with a Substantial Completion date of November 1, 2024. During this construction contract, there have been delays preventing the contractor from completing the work by November 1, 2024. Yerba Buena and its subcontractors have worked cooperatively with the Port through several challenges that have delayed Substantial Completion. These items include:

- *Delay of Port maintenance dredging:* Maintenance dredging of the Outer Lagoon was required to restore water depths needed to construct the Float. The dredging work, led by the Port using a separate contract, was scheduled to be complete by the end of July with Yerba Buena scheduled to mobilize marine equipment to the site on August 26. However, unforeseen delays in approvals from the Dredged Materials Management Office (DMMO), and difficult dredging operations caused by debris extended the completion to September 30, delaying Yerba Buena from mobilization to the site as planned.
- *Removal of existing timber mooring piles:* Originally, the Port planned for the dredging contractor to remove the existing timber mooring piles at Wharf J9. The Port shifted this scope to Yerba Buena because Yerba Buena was able to perform this work for less cost due to efficiencies of equipment planned to be onsite for the float construction. Yerba Buena's cost for this work was approximately \$80,000 versus approximately \$300,000 originally estimated by the dredging contractor.
- *Unforeseen conditions during pile driving:* During the dredging operations, a significant amount of large debris was observed at this site. This debris and other underground obstructions also led to delays in the pile driving operations. Cost and time delay are still under review.
- *Time-sensitive repair of Wharf J8 deck:* During the construction of the Wharf J9 Float, a structural issue with three piles at the Wharf J8 deck, adjacent to Scoma's Restaurant and just to the north of Wharf J9, was observed. This structural issue was not caused by the dredging or J9 construction operations. Rather, the presence of the teams in the water helped identify this public safety risk. Due to the importance of this Port-maintained deck for access to Scoma's restaurant, the Port prioritized the urgent repair of this deck and had Yerba Buena work in collaboration with Port Maintenance to install three new piles at this location while they were already mobilized with pile-driving equipment. Additional degraded piles have also been discovered by follow-up dive inspections and the Port is considering options, including an additional change order. These additional repairs are discussed below.

As noted above, Port staff and Yerba Buena discovered underwater damage to additional timber piles at Wharf J8 during inspections related to the repair of the first three piles with visible issues. The Port is now considering the replacement of eight additional timber piles along Wharf J8 through a change order to Yerba Buena's contract. Per the Contract, Port has issued a Proposed Change Order for these repairs. Yerba Buena will respond with a

cost proposal. Although this work could be contracted by other means, Port staff recommends conducting this work through a change order of the Yerba Buena contract for the following reasons:

1. The J8 repair work is similar to the originally authorized pile-driving work and uses nearly identical equipment.
2. Having Yerba Buena complete this work is financially more efficient because the Port saves on mobilization costs and Port staff costs to advertise a new contract.
3. Yerba Buena will be able to complete this work faster than any other feasible option. Further deterioration of piles could impact egress along Wharf J8. If Port staff were to advertise a new contract, these repairs could be delayed by six months. Port Maintenance cannot complete this work within the next six months either due to the availability of pile driving equipment and staff.
4. The lagoon in this area has already been cleared out and boats are relocated from their berths. If J8 is not repaired now, the berth holders would either need to move back to J8 and then relocate again in a few months or remain in their temporary locations for the next six months.
5. Yerba Buena and its marine construction subcontractor Power Engineering Construction have been collaborative partners with the Port thus far.

Section 6.22(h) of the City Administrative Code allows staff to grant schedule increases up to 10% of the original contract amount and to seek approval of time extensions above 10%. To address the delays from dredging and unforeseen conditions and the time to complete Wharf J8 repairs, Port staff requests authorization to execute a contract modification to extend the original contract duration of 186 calendar days for substantial completion by an additional 87 calendar days (in addition to the 18 days permitted to be granted by the Port). The requested contract modification would thus extend the substantial completion date from November 1, 2024, to February 14, 2025.

The Project costs to date have not exceeded the authorized not-to-exceed amount. Throughout this process, despite the schedule delays and modifications to scope, Yerba Buena and Port staff focused on limiting costs. Yerba Buena and the Port worked to leverage efficiencies to complete additional scope more quickly and for less overall cost to the Port. The total change orders, including the first three replaced piles at Wharf J8, are currently estimated at less than the 10% authorized contingency; however, the remaining contract work is not yet complete. To address the additional unanticipated repairs at Wharf J8 and to allow the remaining work to continue efficiently and uninterrupted, Port staff requests that the Port Commission authorize staff to increase the contract amount by an additional \$300,000 through contract modification or change order. This request would raise the total authorized not-to-exceed amount by \$300,000, from \$3,913,118 to \$4,213,118.

## **SAN FRANCISCO LOCAL BUSINESS ENTERPRISE REQUIREMENT**

The Contract Monitoring Division (CMD) enforces the City's Administrative Code Chapter 14B, the Local Business Enterprise and Non-Discrimination in Contracting Ordinance. The ordinance establishes bid discounts for Local Business Enterprise ("LBE") prime

contractors and empowers CMD to set LBE subcontractor participation goals based on the availability of LBE firms to complete the type of work included in the Contract. As documented in Resolution 23-51, CMD established an 8% LBE subcontractor participation goal for this project. This percentage was set lower than some other recent contracts due to the specialized nature of overwater work. The awarded contractor, Yerba Buena, is a certified LBE, and their total LBE subcontractor percentage is above 8%.

## SCHEDULE

The modified Project completion schedule is noted below:

Executive Director Authorization to Award	February 27, 2024
Notice to Proceed	April 29, 2024
Original Substantial Completion	November 1, 2024
Revised Substantial Completion	February 14, 2025

## FUNDING

The contract details and requested modifications are shown below.

<b>Awarded Contract Value:</b>	<b>\$3,557,380</b>
<u>Authorized 10% Contingency:</u>	<u>\$355,738</u>
<b>Total Authorized Contract Value:</b>	<b>\$3,913,118</b>
 <u>Requested Increase of Contract Value:</u>	 <u>\$300,000</u>
<b>Revised Total Not-to-Exceed Contract Value:</b>	<b>\$4,213,118</b>

This project is funded by a combination of the Waterfront Resilience Program (WRP) 2018 Seawall General Obligation Bond ("Seawall Bond") and Economic Recovery Project funds. Elements that will be incorporated into the future replacement project including fabrication and delivery of the concrete float and gangway are funded by the 2018 Seawall Bond. All other project costs are funded from the Economic Recovery Project including the time-sensitive repair work at Wharf J8.

The expected funding is summarized below:

<b>Funding Source</b>	<b>Award</b>	<b>Amended</b>
2018 Seawall General Obligation Bond	\$1,626,369	\$1,626,369
<u>Economic Recovery Project (Harbor Fund)</u>	<u>\$2,286,749</u>	<u>\$2,586,749</u>
<b>Total Funding</b>	<b>\$3,913,118</b>	<b>\$4,213,118</b>

## **SUMMARY**

The Contractor experienced unforeseen delays in contract completion beyond 10% of the original contract duration for the Project. The circumstances for the delay are due to delays in Port maintenance dredging, unforeseen conditions in the field, and additional work directed by the Port including time-sensitive repairs to Wharf J8.

Yerba Buena performed initial time-sensitive repairs at the project site after a public safety issue was identified with the adjacent Wharf J8 structure. Work to date has been completed under the authorized 10% contingency, however, contract work is still ongoing and additional time-sensitive repair work at Wharf J8 is being assessed. Port staff, therefore, request Port Commission authorization to increase the not-to-exceed contract value by an additional \$300,000 to allow work to proceed efficiently should the additional repairs be needed.

## **RECOMMENDATION**

Port staff recommends Port Commission approve the attached resolution to:

- Authorize Port staff to execute a contract modification to extend the original contract duration of 186 days for substantial completion by an additional 87 calendar days, in addition to the time extension of 18 days that Port staff has already granted; and
- Authorize Port staff to increase the contract amount up to a total not-to-exceed value of \$4,213,118, as necessary for unanticipated contingencies including time-sensitive repairs to Wharf J8.

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Attachment: Exhibit A – Area of Work Location Map

**PORT COMMISSION  
CITY AND COUNTY OF SAN FRANCISCO**

**RESOLUTION NO. 24-63**

- WHEREAS, On April 29, 2024, the Port Executive Director authorized the award of Construction Contract No. 2861 ("the Contract"), WRP Wharf J9 Replacement Project, Phase 1 – Float & Gangway, to Yerba Buena Engineering and Construction, Inc ("Contractor"); and
- WHEREAS, The contract scope included fabricating and installing a 270-foot long concrete float, an 80-foot long aluminum gangway, platforms linking the gangway to the existing Al Scoma Way bridge, and utility work to supply water and power to the float; and
- WHEREAS, During construction, the Contractor encountered issues that required additional time and cost to complete the contract; the circumstances are due to delays in Port maintenance dredging, additional work to address circumstances in the field due to unforeseen conditions, and additional work to complete time-sensitive repairs at Wharf J8; and
- WHEREAS, Section 6.22(h) of the City Administrative Code authorizes the Port Commission to approve time extensions greater than 10% of the original contract amount or duration; and
- WHEREAS, Port staff requests authorization of an extension of time of 87 calendar days to the original contract duration of 186 calendar days, which combined with the time extension of 18 days allowed to be granted by Port staff, will extend the original contract's substantial completion date from November 1, 2024 to February 14, 2025; and
- WHEREAS, Port staff requests authorization to increase the contract amount up to an additional \$300,000 for a total authorized not-to-exceed contract value of \$4,213,118; now, therefore be it
- RESOLVED, That the Port Commission hereby authorizes Port staff to execute a contract modification to Contract No. 2861, WRP Wharf J9 Replacement Project, Phase 1 – Float & Gangway, to extend the existing substantial completion date by an additional 87 days; and be it further
- RESOLVED, That the Port Commission authorizes Port staff to increase the Contract amount, as necessary for unanticipated contingencies and time-sensitive repair work at Wharf J8, by up to an additional amount of \$300,000 through contract modification or change order; and further, the Port Commission hereby ratifies all actions taken by the Port staff in furtherance of the purposes described in this Resolution.

***I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of December 10, 2024.***

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Secretary



**EXHIBIT A**  
**Area of Work Location Map**

