



## MEMORANDUM

July 3, 2025

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

**FROM:** Elaine Forbes  
Executive Director

**SUBJECT:** Request for retroactive authorization to modify Construction Contract No. 2861, WRP Wharf J9 Replacement Project, Phase 1 – Float & Gangway, to extend the substantial completion date 140 days, for a total duration of 417 days.

**DIRECTOR'S RECOMMENDATION:** Approve the Attached Resolution No. 25-39

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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 140 calendar days. The Project is an installation of a new float and gangway in front of the red-tagged Wharf J9, which will provide a dock to support the Retail Fish Sales Program and interim accessible berthing before Phase 2 of the Wharf J9 Replacement project is built. Construction is being performed by a Local Business Enterprise ("LBE") general contractor based in Bayview, Yerba Buena Engineering and Construction, Inc. ("Yerba Buena").

The requested time extension is in addition to the time extension authorized by the Port Commission on December 10, 2024, by Port Commission Resolution 24-63. The original contract provided a duration of 186 calendar days for substantial completion of the work, and Resolution 24-63 increased substantial completion duration to a total of 277 days to accommodate delays in Port dredging and to complete time-sensitive repair work at adjacent Wharf J8 piles. The requested extension herein accounts for delays in securing

the regulatory approvals for the J8 pile repairs, supply chain delays in procuring electrical equipment, and delays in Port building permit closeout. The Project received a temporary certificate of occupancy (“TCO”) on January 2, 2025, and successfully opened to the public for the start of the 2025 crab season as intended. The delay in substantial completion has not impacted the use of the float, and Contract costs remain below the not-to-exceed value authorized under Resolution 24-63.

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. Port staff can seek retroactive approval of time extensions above 10% where Port staff have analyzed the record and do not find a basis to assess liquidated damages. Port staff has determined there is no basis to assess liquidated damages against the contractor.

## **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 have 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, the lowest responsive and responsible bidder, for \$3,557,380 and further authorized staff to increase the Contract amount, as necessary for unanticipated contingencies, to \$3,913,118 through contract modification. 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.

Notice to Proceed was issued on April 29, 2024, with an anticipated Substantial Completion date of November 1, 2024. On December 10, 2024, Port Commission

Resolution 24-63 authorized an extension of the Substantial Completion date to January 31, 2025, to accommodate delays of Port maintenance dredging, added scope to remove existing timber mooring piles, delays due to unforeseen conditions during pile driving, and added scope to complete time-sensitive pile repairs of Wharf J8 deck. Resolution 24-63 also authorized an increase in the not-to-exceed amount by \$300,000, from \$3,913,118 to \$4,213,118, to include the costs associated with installing the Wharf J8 repair piles.

While substantial completion was delayed, the contractor prioritized the installation of critical components and opened the float on time for Retail Fish Sales. The Project was granted a temporary certificate of occupancy ("TCO") and the float successfully opened for off-the-boat crab sales on Sunday, January 5, 2025. None of the delays described in this report impacted the use of the float for Retail Fish Sales.

The contract requires further extension of the substantial completion date for the following reasons:

1. The contractor was not able to start pile driving until March 2025 because of the US Army Corps of Engineers ("USACE")'s delay in responding to a permit application for the J8 repair pile installation. Shifting the installation to March also ensured the pile driving work would not disrupt the busiest Retail Fish Sales periods at the float.
2. There were unforeseen supply chain issues with procuring lighting elements and electrical components.
3. Administrative delays extended closeout of the Port Building Permit.

Section 6.22(h) of the City Administrative Code allows staff to grant time extensions up to 10% of the original contract amount and to seek retroactive approval of time extensions above 10% where the Department Head or her designee makes a written finding in the time extension that no basis exists to assess liquidated damages. Port staff has analyzed the record and does not find a basis to assess liquidated damages against the Contractor for the construction delays.

To address these unforeseen delays from permitting and component lead times, Port staff request authorization to execute a contract modification to extend the contract duration of 277 calendar days for substantial completion by an additional 140 calendar days. The requested contract modification would thus extend the substantial completion date from January 31, 2025 to June 20, 2025. There are no increased costs associated with this proposed extension, and the Project costs have not exceeded the authorized not-to-exceed amount.

## **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 LBE prime contractors and empowers CMD to set LBE subcontractor participation goals based upon 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 (December 2024)	January 31, 2025
Proposed Revised Substantial Completion	June 20, 2025

## FUNDING

The contract details are shown below for reference. Port staff is not requesting an increase in funding as part of this contract modification.

<b>Awarded Contract Value:</b>	<b>\$ 3,557,380</b>
Authorized 10% Contingency:	\$ 355,738
<u>Authorized Increase of Contract Value (December 2024):</u>	<u>\$ 300,000</u>
<b>Total Not to Exceed Contract Value:</b>	<b>\$4,213,118</b>

This project is funded by a combination of Waterfront Resilience Program ("WRP") 2018 Seawall General Obligation Bond ("Seawall Bond") and Economic Recovery Project funds.

## SUMMARY

The contractor experienced unforeseen delays in substantial completion beyond the contract duration for the Project. The circumstances for the extension are due to delays in environmental permitting, long lead times of lighting and electrical components, and administrative delays in building permit closeout. Yerba Buena managed these delays and successfully installed work to open the float in time for off-the-boat crab sales. Port staff find no basis to assess liquidated damages for the delay in substantial completion.

## RECOMMENDATION

Port staff recommends Port Commission approve the attached resolution authorizing Port staff to execute a contract modification to extend the contract duration of 277 days for substantial completion by an additional 140 calendar days.

Prepared by: Chris Horiuchi  
Project Manager

For: Steven Reel  
Waterfront Resilience Program  
Deputy Program Manager  
Engineering & Project Delivery

Meghan Wallace  
Interim Deputy Director of Finance and  
Administration

Attachment: EXHIBIT A - Area of Work Location Map

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

**RESOLUTION NO. 25-39**

- WHEREAS, On April 29, 2024, the Port Commission adopted Resolution 24-12, which 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, On December 10, 2024, the Port Commission adopted Resolution 24-63, which authorized the modification of the Contract to extend substantial completion by 73 days, in addition to the 18-day time extension Port staff was authorized to grant without Commission approval, and to increase the Contract amount, as necessary for unanticipated contingencies and time-sensitive repair work at Wharf J8, by an amount not to exceed \$300,000 through contract modification; and
- WHEREAS, During the course of construction work, the Contractor encountered further issues that required additional time to complete the Contract; and
- WHEREAS, These issues included delays in environmental permitting, unforeseen procurement delays for lighting and electrical equipment, and Port-caused administrative delays in closing out the Port building permit; 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 such a time extension is permissible after completion of the work when there is no basis to assess liquidated damages for the delay against the contractor; and
- WHEREAS, Port staff requests authorization of an extension of time of 140 calendar days to the contract duration of 277 calendar days, which will extend the contract's substantial completion date from January 31, 2025, to June 20, 2025; and
- WHEREAS, As described in the accompanying staff report, Port staff has analyzed the record and found that the delays in the completion of the Contract were beyond the Contractor’s control and there is no basis to assess liquidated damages against the Contractor; 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 140 days; and be it further

RESOLVED, That the Port Commission hereby authorizes Port staff to take further actions as necessary to achieve the purposes described in this Resolution.

***I hereby certify that the foregoing resolution was adopted by the San Francisco Port Commission at its meeting of July 8, 2025.***

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Secretary

**EXHIBIT A**  
**AREA OF WORK LOCATION MAP**

