

[Type here]

**COMMISSION
AGENDA MEMORANDUM**

Item No.

8c

ACTION ITEM

Date of Meeting

January 26, 2021

DATE: December 28, 2020

TO: Stephen P. Metruck, Executive Director

FROM: Fred Chou, Capital Program Leader, Seaport Project Management
Melinda Miller, Director, Portfolio & Asset Management, Economic Development

SUBJECT: P66/Bell Harbor International Conference Center Modernization Project (CIP #C800889) Additional Funding Request

Amount of this request: \$390,000

Total estimated project cost: \$11,950,000

ACTION REQUESTED

Request Commission authorization for the Executive Director to approve additional funding of \$390,000 for a new estimated total project cost of \$11,950,000 for the Pier 66 Interior Modernization Project on the Bell Harbor International Conference Center (BHICC) to allow the project to meet its forecasted contract adjustments.

EXECUTIVE SUMMARY

This request is for additional budget for the Pier 66 Interior Modernization Project on the Bell Harbor International Conference Center (BHICC) to allow the project to meet its forecasted contract adjustments to address unforeseen conditions discovered during construction. The Port has issued substantial completion to the contractor on August 15th and the facility is in use.

During construction, the contractor encountered many issues on this legacy facility that required contract changes to resolve and rectify issues. On December 17, 2020, staff notified the Commission of the execution of contract change orders exceeding 10% of the contract value as required by Resolution No. 3605, paragraph 4.2.3.8. Remaining change orders and claim back-up documentations are being reviewed and the total change order costs are projected to potentially reach up to 24% of the contract value, which would result in a budget shortfall and additional project budget is needed.

The funding request includes a reserve to address a \$240,900 claim from a subcontractor. Port's Construction Management staff is contesting the validity of the claim and has requested additional back-up information. The claim negotiation is expected to take some time to resolve and may end up in dispute resolution but with this possible future claim and other forecasted

Meeting Date: January 26, 2021

charges to pay for overruns on time and materials change orders, staff is requesting the additional funds now.

BACKGROUND/JUSTIFICATION

When BHICC opened in 1996, it was considered a state-of-the-art facility. BHICC was one of the few stand-alone conference centers not attached to a hotel. Its location on the newly developed central waterfront fulfilled a distinct and as yet unanswered need for a mid-sized event space while enhancing the region's destination profile (smaller and more intimate than Washington State Convention Center and Lumen Field Event Center yet larger than most hotel event facilities). Subsequently, the conference and cruise spaces were successfully integrated to provide expanded access to waterfront views and venues enhancing its competitive position and overall marketability as an event destination. Today, the Pier 66 facility remains one of the few cruise terminals in the country which operates as an event destination when the ships are not calling, generating revenue and providing economic benefit to the Port year-round.

However, the conference and event industry in Puget Sound and worldwide has matured and the minimum facility standards required to host premier, high-quality conferences and events have evolved dramatically. People convene quite differently today than 25 years ago; more flexible and collaborative spaces along with state-of-the-art technology and impactful audio-visual display to enhance experience creation are now mission-critical to successful events.

The regional marketplace is rapidly evolving, and multiple new and compelling event spaces are being introduced in Seattle, Bellevue and other nearby communities. Though our facility is iconic and enjoys the distinct advantage of a showcase position on the central waterfront, it is showing its age and a refresh of furniture, fixtures and finishes is required.

The modernization project increases rentable capacity; adds more flexible and customizable spaces; incorporates new finishes; advances the technology and audio visual infrastructure; incorporates sustainable and environmentally friendly features; links levels one through three of the facility with a new interior open staircase and a new ADA-compliant ramp; installs interior and exterior wayfinding signage; procures new furniture; and upgrades the kitchen equipment.

DETAILS

During construction to renovate this 25-year-old legacy facility, the contractor encountered many issues that required contract changes to resolve and rectify. For example, roof drains were concealed in walls and column locations not shown in the as-built drawings and had to be relocated; legacy electrical power, fire protection, audio visual, and communication wiring from years of operations and changes over the years that needed additional investigations and tracing, resulting in delays and relocations; differing thickness of floor slabs not shown on drawings; and other unforeseen conditions plus design related challenges all attributed to the numerous contract changes. On December 17, 2020, staff notified Commission of the execution of contract Change Orders exceeding 10% of the contract value as required by Resolution 3605, paragraph

Meeting Date: January 26, 2021

4.2.3.8. Remaining change orders and claim back-up documentations are being reviewed and the total change order costs is projected to potentially reach up to 24% of the contract value, which would result in a budget shortfall and more project budget is needed.

This \$390,000 additional funding request includes a reserve to address a \$240,900 claim from the electrical subcontractor for disruption related issues the subcontractor allegedly encountered. Port's Construction Management staff is contesting the validity of the claim and has been in discussion with the contractor multiple times. Additional back-up information has been requested for review. The claim negotiation is expected to be protracted and may end up in dispute resolution. The remaining \$149,100 portion of the request is to increase construction contingency to pay for forecasted overruns in time and materials change orders to address unforeseen conditions discovered during construction. Staff is requesting the additional funds now to allow the Port to pay the contractor once the change orders are negotiated and executed without delays.

In all, the cost growth is a result of multiple issues with most of the larger issues due to varying site conditions/inaccurate as-builts. There were some COVID-19 related costs but other changes were equally impactful; the Commission has been notified of increased Interior Modernization COVID-19 construction costs in the monthly reports required by Commission Motion 2020-09.

The interior modernization project's associated improvements were conducted within a legacy facility with incomplete and inaccurate as-builts, and comprehensive invasive investigations were difficult to performed during the design phase due to the way the facility was originally constructed and challenges associated with ongoing scheduled events and related preparation activities. With this important lesson learned, staff has been diligent to ensure accurate as-builts are made and available for easy future retrieval. Staff is still reviewing root causes on some of the change orders and other lessons learned and will document lessons learned to help future projects.

Schedule

Construction is substantially complete and project closeout phase is being initiated. Change order and claim negotiations are continuing and may be completed by the end of first quarter or second quarter, 2021.

ALTERNATIVES AND IMPLICATIONS CONSIDERED

Alternative 1 – Defer this additional funding request until after the results of change order negotiations and the subcontractor's claim settlement are known

Cost Implications: Potentially up to \$390,000 would still need to be authorized

Pros:

- (1) Amount of additional funding request would be based on the actual negotiated change orders and claim settlement amounts.

Meeting Date: January 26, 2021

Cons:

- (1) Additional funding request is still needed, just the timing is deferred.
- (2) Some change order(s) that could be executed early would need to be held until Commission's additional funding approval. Contractor payment(s) would be delayed and in turn impact contractor's payment(s) to the subcontractors.

This is not the recommended alternative.

Alternative 2 – Assume a claim settlement amount now and use the projected total budget for the Commission's additional funding authorization. Return to the Commission to seek additional authorization as necessary pending results of claim negotiation.

Cost Implications: Request \$280,000 additional authorization based on a potential settlement/allowance based on half of the contractor's claim, bringing total approved budget to \$11,840,000

Pros:

- (1) Staff would continue review and negotiate with the contractor on the remaining change orders and subcontractor's claim and pay contractor as they are negotiated/settled.

Cons:

- (1) Assumption on the claim settlement amount is arbitrary and actual amount could be lower or higher. There still could be a chance that additional authorization would be required, and if so, additional time would be necessary to obtain Commission funding approval and some contractor change order payments would be delayed.

This is not the recommended alternative.

Alternative 3 – Request additional funding based on contractor's full claim amount; continue review and negotiate with the contractor on the remaining change orders and claim; and pay contractor as the change orders are negotiated and claim amount settled

Cost Implications: \$390,000 additional funds would need to be authorized

Pros:

- (1) The amount of request represents the worst-case cost scenario and if Commission approves the additional budget, some contractor payments could be paid promptly once the change orders are fully negotiated and executed. This would be important since the subcontractor's claim in question could end up in protracted dispute resolution.

Cons:

- (1) The \$390,000 requested additional funding is based on the conservative, full claim amount. Using this figure, more funds will be obligated and would result in decreased capital program's capital capacity. However, if Port is able to prevail on our position on the claim, the amount of the additional funding request could be as low as \$181,200.

This is the recommended alternative.

Meeting Date: January 26, 2021

FINANCIAL IMPLICATIONS

| <i>Cost Estimate/Authorization Summary</i> | Capital | Expense | Total |
|--|--------------|-----------|--------------|
| COST ESTIMATE | | | |
| Original estimate | \$10,860,000 | \$700,000 | \$11,560,000 |
| Current change | \$390,000 | 0 | \$390,000 |
| Revised estimate | \$11,250,000 | \$700,000 | \$11,950,000 |
| AUTHORIZATION | | | |
| Previous authorizations | \$10,860,000 | \$700,000 | \$11,560,000 |
| Current request for authorization | \$390,000 | 0 | \$390,000 |
| Total authorizations, including this request | \$11,250,000 | 700,000 | \$11,950,000 |
| Remaining amount to be authorized | \$0 | \$0 | \$0 |

Annual Budget Status and Source of Funds

This project was included in the 2021 Plan of Finance under C800889 BHICC Interior Modernization with a total project cost of \$10,511,000. The current total project estimate is \$11,950,000. The additional \$1,439,000 in project costs will be covered by C800216 EDD Reserve.

This additional spending will be funded by the Tax Levy.

Financial Analysis and Summary (Finance to Revise)

| | |
|---|---|
| Project cost for analysis | \$11,950,000 |
| Business Unit (BU) | Portfolio Management |
| Effect on business performance (NOI after depreciation) | <p>Please see the project’s original construction authorization (June 2019) for a complete financial forecast for this project.</p> <p>At this time, forecasts for future conference and event activity are highly uncertain due to the COVID-19 pandemic and dependent on the effectiveness of the vaccination program. On the supply side, the pandemic will continue to significantly impact event spaces throughout in the region. Based on the most recent forecast (Q3 2020), the project’s payback period is estimated to be approximately 11 years but does not account for the potential of a post-pandemic (2022) economic recession.</p> |

ATTACHMENTS TO THIS REQUEST

- (1) Presentation slides

Meeting Date: January 26, 2021

PREVIOUS COMMISSION ACTIONS OR BRIEFINGS

- October 11, 2016 – The Commission authorized \$2,500,000 million design funding for the modernization of the Bell Harbor International Conference Center and the façade of the Paul Schell Center at Pier 66
- June 11, 2019 – The Commission authorized \$10,350,000 funding for the construction phase of the Bell Harbor International Conference Center Project for a total estimated project cost of \$11,560,000