



Legislation Text

File #: 11-0478, **Version:** 1

Recommendation to authorize City Manager to execute all documents necessary for the Fourth Amendment to Design-Build Contract No. 28388 between the City of Long Beach and ARB Structures, Inc., for the completion of construction of the Phase I parking structure at the Long Beach Airport. (District 5)

The City of Long Beach (City) and ARB Structures, Inc. (ARB Structures) entered into a Design-Build Contract (Contract) dated August 1, 2003, that has been subsequently amended three times. ARB Structures is constructing the Phase I parking structure and related site work at the Long Beach Airport. During the course of construction, a dispute developed regarding Contract interpretation. The dispute was resolved in principle by the parties pursuant to a mediation conducted in accordance with the Contract. The City and ARB Structures now desire to amend the Contract to reflect the resolution of the disputed items.

In consideration of the agreement by ARB Structures to reduce the Contract Price and certain other concessions, the City has agreed that the Contract Price shall be a fixed price or lump sum price, as opposed to a guaranteed maximum price, and all applications for payment submitted by ARB Structures shall be processed accordingly.

In order to complete the construction of Phase I, an amendment to Design-Build Contract No. 28388 is required. The Fourth Amendment contains the following major terms and provisions:

- Owner: City of Long Beach.
- Design-Builder: ARB Structures, Inc.
- Contract Price: Owner shall pay Design-Builder the sum of \$41,295,162 (a reduction of \$1,174,944) plus \$346,828 for the additional labor, materials, and equipment required for early completion, should the Work be complete prior to July 15, 2011, for construction of Phase I of the Parking Structure. Phase I of the Structure shall consist of the following Stages:
 - o Stage I - \$4,500,443 - Design, Engineering and Construction Document Preparation;
 - o Stage IIA - \$3,128,072 - Airport Access Road;
 - o Stage IIB - \$4,301,031 - Parking Structure Site Work;
 - o Stage III - \$28,978,676 - Construction of Phase I Structure;
 - o CCO#1-1 - \$167,742 - Verizon-performed Work;
 - o CCO#2-1 - \$143,242 - Re-establish Water Services;

- o Liquidate all Outstanding Change Order Requests - \$75,956;
- o Early Completion Effort - \$346,828 (subject to proportionate reduction).

The Fourth Amendment will contain provisions regarding the early completion effort. If the Parking Structure is substantially complete and the City receives revenue from the operation of the entire facility, on or before July 15, 2011, then the City will reimburse ARB Structures for the additional labor" materials, and equipment necessary to complete the project ahead of schedule. The reimbursement will be in an amount not-to-exceed \$346,828. The City will pay for the additional labor, materials, and equipment on any date after July 15, 2011, on which the Parking Structure is substantially complete and generating revenue, provided, however, that the compensation shall be reduced proportionately for every calendar day after July 15, 2011, so that the compensation would equal zero if the Parking Structure is substantially complete and generating revenue on or after September 15, 2011.

In addition, various provisions and attachments shall be edited and updated to reflect the resolution of the disputed items and to reflect the final scope of the project. The amended Contract shall only constitute work for Phase I of the Structure. Future City Council approval will be necessary for the design and construction of Phase II.

This letter was reviewed by Deputy City Attorney Richard F. Anthony on May 4, 2011, and Budget Management Officer Victoria Bell on May 3, 2011.

City Council action is requested on May 17, 2011, in order to finalize the terms of the Fourth Amendment and complete the construction of Phase I of the parking structure.

There is no impact to the General Fund. The revised contract price (inclusive of the early completion bonus) will be reduced by \$828,116. Sufficient appropriation was authorized by the City Council in the Airport Enterprise Fund (EF 320) in the Airport Department (AP) on November 3, 2009, as part of the authorization for the First Amendment to the Design-Build Contract. The appropriation will be funded by the proceeds of the bond sale authorized by the City Council on November 3, 2009.

Approve recommendation.

MARIO RODRIGUEZ
DIRECTOR, LONG BEACH AIRPORT

APPROVED:

PATRICK H. WEST
CITY MANAGER