



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** Katy Allen  
William F. Sherry, A.A.E.

**SUBJECT:** SEE BELOW

**DATE:** June 2, 2008

Approved

Date

6/2/08

**COUNCIL DISTRICT:** Citywide

**SUBJECT: APPROVAL OF THE THIRD AMENDMENT TO THE CONTRACT WITH HENSEL PHELPS CONSTRUCTION COMPANY FOR THE DESIGN AND CONSTRUCTION OF THE AIRPORT TERMINAL AREA IMPROVEMENT PROGRAM**

## RECOMMENDATION

1. Approval of the Third Amendment to the Contract with Hensel Phelps Construction Company (Hensel Phelps) for design and construction of the Airport Terminal Area Improvement Program to increase the maximum not-to-exceed contract compensation by \$27,933,000, from \$664,177,382 to \$692,110,382;
2. Allow for the release of retention for structural steel for Terminal B prior to 50% completion of the project element; and
3. Authorize the City Manager to increase the estimated premium and estimated loss reserves in the City's current Owner Controlled Insurance Program for the Airport's Master Plan projects with American International Group from \$25,000,000 to a total amount not to exceed \$26,000,000.

## EXECUTIVE SUMMARY

Staff recommends amendments to the Hensel Phelps design-build agreement related to program scope and compensation to include work associated with the Terminal A Equity Project that originally was a separate project. Staff also recommends funding actions and strategies to pay for the additional scope and to help address a projected shortfall in funding for the Terminal A Modifications Project.

**HONORABLE MAYOR AND CITY COUNCIL**

**Subject: Approve a Third Amendment to the Contract with Hensel Phelps Construction for the Design and Construction of the Airport Terminal Area Improvement Program**

**June 2, 2008**

**Page 2**

In reviewing alternatives to best manage the interrelation of design and construction activities between the TAIP Terminal A Modifications Project and the Terminal A Equity Project, staff determined that it would be most advisable that one designer and one contractor be tasked with completing the combined work. This approach will help reduce the risk and costs that can arise from overlaps and gaps from multiple designers or contractors, and it also will provide better opportunities to reduce the overall cost of both projects through more efficient coordination such as has been achieved under the design-build contract. Modifications to Terminal A are already included within the scope of the design-build contract, and Hensel Phelps is best positioned to complete and coordinate this work for the Equity Project given the extensive construction work they will be completing in Terminal A.

The integration of public art at the Airport also requires the incorporation of additional infrastructure into the new Terminal B project. Since Hensel Phelps is constructing Terminal B, it is recommended that the additional scope of work be added to the Hensel Phelps contract. Funding from the public art program will provide the resources for the additional cost to the project.

Staff also recommends that the design-build contract be amended to allow the release of the retention for the structural steel work for Terminal B performed by the subcontractor upon completion of all structural steel work anticipated in early 2009, rather than in 2010 after the completion of the new terminal as required under the current terms of the contract. Contract retention for the remaining portions of the work under the Task Order will be maintained pursuant to the terms of the design-build contract.

**BACKGROUND**

On October 17, 2006, Council approved a contract with Hensel Phelps for the design and construction of the Airport Terminal Area Improvement Program (TAIP) in the amount of \$488,211,000. The total not-to-exceed amount of the contract was \$512,771,000 and included a \$24,560,000 City-controlled design and construction contingency. To date, Council has approved two amendments to the contract to reflect the additional scope of a larger Consolidated Rental Car Garage, to meet the requirements of the Rental Car tenants, and to provide authority for associated expenditures associated with the revised scope; the City Manager has approved contract change orders in the amount of \$33,132,382, consistent with the terms of the contract, Council direction, and City Manager authority. The total current compensation for the contract is not to exceed \$664,177,382.

Council also approved a City-controlled program reserve, not included within the Hensel Phelps contract, for additions to the scope of the program. That reserve was established in an amount not to exceed \$55,965,000, with an additional \$11,200,000 for potential additions to the public parking portion of the scope of the Consolidated Rental Car Garage.

HONORABLE MAYOR AND CITY COUNCIL

Subject: Approve a Third Amendment to the Contract with Hensel Phelps Construction for the Design and Construction of the Airport Terminal Area Improvement Program

June 2, 2008

Page 3

ANALYSIS

1. Amendment to Increase Contract Amount

Terminal Equity Project

In 2006 the Airlines agreed to fund the Terminal A Equity Project as part of the Airport's overall capital improvement program to further enhance airport amenities and customer services. This project provides improvements to the existing Terminal A/A+ and the Terminal A Garage in order to create equitable facilities comparable to the new terminal facilities delivered by the TAIP. The Terminal A Equity Project has been divided into five smaller projects:

- General Improvements
- Replacement of Passenger Boarding Bridges (PBB)
- Furniture, Furnishings and Equipment (FF&E)
- Technology Improvements, and
- Airlines Tenant Improvements.

The Equity Project was originally envisioned to take place in the parts of Terminals A and A+ that were not anticipated to be changed by the TAIP. However, Terminal A modifications that were designed as part of the TAIP budget reconciliation process changed the majority of the building and resulted in an overlap of the area in which the two scopes of work will be constructed. In addition, as design has progressed, additional infrastructure needs that are common to both the TAIP scope of work and the Terminal Equity Project have been identified.

These common issues include:

1. **Revised aircraft parking positions.** Changes to the aircraft parking positions across all terminal gates will maximize the flexibility of parking aircraft across the entire airport campus, and most specifically at Terminal A and A+. Under the TAIP, Hensel Phelps has provided an aircraft layout plan and will be directed to do the required striping, re-positioning of passenger boarding bridge foundations along with the associated mechanical, electrical and plumbing work in Terminals A and A+.
2. **Electrical power upgrade to serve passenger board bridges.** Over the next year and a half, all the PBBs in Terminal A/A+ will be replaced with updated bridges and accessories under the Equity Project. During design it was discovered that neither Terminal A nor A+ has sufficient electrical power to fully support the new generation PBBs, and it is necessary to provide additional electrical power to serve both buildings in order to make the PBBs fully operational, including 400Hz power and pre-conditioned air. The TAIP Terminal A Modifications project also requires extensive modifications to the building's electrical system. To obtain and install the additional power requires a single, coordinated effort.

**HONORABLE MAYOR AND CITY COUNCIL**

**Subject: Approve a Third Amendment to the Contract with Hensel Phelps Construction for the Design and Construction of the Airport Terminal Area Improvement Program**

**June 2, 2008**

**Page 4**

3. **New fire suppression system and a new paging system.** Modifications to Terminal A under the TAIP trigger the requirement for a new fire suppression system and a new paging system. Under the Equity Project, Terminal A+ has the same requirement, and must be integrated into the new system. Implementation of these new systems should be completed as a single coordinated effort to ensure consistency and reduce overall costs.
  
4. **New free-standing furniture in the terminals.** The design, layout and construction of fixed furniture across the airport campus are tasked to Hensel Phelps outside of the Equity Project. However, free-standing furniture, including furniture that was budgeted under the Equity Project, will be procured through the City's Department of Finance procurement process. For efficiency and to ensure aesthetic consistency, Hensel Phelps will be directed to develop the specifications and layouts for all new free-standing furniture in all of the terminals.

In order to manage the interrelation between the scopes of work between the TAIP Terminal A Modifications project and the Terminal Equity Project, it is advisable that one designer and one contractor be tasked with completing this work. Modifications to Terminal A are included within the scope of the design-build contract, and Hensel Phelps is best positioned to complete this work, given the extensive and construction work that they will be completing in Terminal A.

In support of this, Hensel Phelps has been tasked with completing program verification for the General Improvements scope of work in these overlapping areas, and to address the new, common infrastructure needs. In addition, it is anticipated that 65% of this work will be bid to subcontractors by Hensel Phelps, allowing for opportunities for participation by the local construction market.

Public Art

The integration of public art at the Airport requires incorporation of additional building infrastructure into the new Terminal B project. Since Hensel Phelps is constructing Terminal B, it is recommended that the additional infrastructure scope of work be added to the Hensel Phelps contract. Funding from the public art program will provide the resources for the additional cost to the project. The recommended contract amendment amount for this work is not to exceed \$700,000. The actual cost will be based on the desired scope of work and will be authorized through a task order.

Additional Funding

In October 2006, staff reported to Council that the preliminary cost for the design-build projects could be \$150 million higher than the budget. The public parking garage was deferred in order to fund the remaining projects. Staff has worked diligently to get the program within budget. A shortfall of approximately \$13.1 million remains. Staff recommends two strategies to partially address this remaining shortfall:

**HONORABLE MAYOR AND CITY COUNCIL**

**Subject: Approve a Third Amendment to the Contract with Hensel Phelps Construction for the Design and Construction of the Airport Terminal Area Improvement Program**

**June 2, 2008**

**Page 5**

1. **Reallocate TAIP funds to the design-build contract.** The TAIP budget includes money for procurements, insurance, professional services and project delivery that fall outside the design-build contract with Hensel Phelps. Based on analysis of costs to date and future cost projections, staff recommends that \$2,100,000 from those funds be reallocated to construction and added to the not-to-exceed amount of the Hensel Phelps contract.
2. **Use Airport Revenue Fund for the TAIP.** The Proposed Capital Improvement Program Budget reflects a \$9,838,000 transfer from the Airport Revenue Fund to the Airport Revenue Bond Improvement Fund. Of this amount \$6,600,000 is available for the TAIP. Staff recommends that \$6,000,000 be added to the not-to-exceed amount of the Hensel Phelps contract. The remaining \$600,000 will be used for City cost and insurance.

These strategies will assist in closing the funding gap, although a shortfall of approximately \$5 million remains on the Terminal A Modifications Project. Staff will continue to work to bridge this funding gap through value engineering, scope changes, available contingencies, and additional funding where available.

The following table reflects the items to be included in the contract amendment:

<b>Description</b>	<b>Amount</b>	<b>Funding Source</b>
General Improvements-Terminals A/A+	\$13,357,000	TAIP-Terminal Equity
Electrical System Upgrade-Terminal A+	\$ 3,326,000	TAIP-Terminal Equity
Fire Alarm Upgrade-Terminal A+	\$ 911,000	TAIP-Terminal Equity
Sprinkler Heads -Terminal A+	\$ 1,539,000	TAIP-Terminal Equity
Public Art Infrastructure-Terminal B	\$ 700,000	Public Art
Funds from Forecast Savings	\$ 2,100,000	TAIP-Existing Funding
Funds from Operating Savings	\$ 6,000,000	Transfer from Revenue
<b>Total</b>	<b>\$27,933,000</b>	

Task Orders will be used to authorize the scope of services and compensation within the limits of the design-build contract.

**2. Release of Retention Funds for Terminal B Structural Steel**

The Hensel Phelps contract allows for the release of retention funds for work performed by a subcontractor upon receipt of an application from the design-builder stating that the subcontractor has completed all work required to be performed under its subcontract. The City processes these applications once per fiscal quarter; the first release will occur following completion of 50% of the Task Order work.

A Task Order for the Structural Components of Terminal B was authorized on November 8, 2007. The current schedule reflects that the structural steel scope of work will be completed by

**HONORABLE MAYOR AND CITY COUNCIL**

**Subject: Approve a Third Amendment to the Contract with Hensel Phelps Construction for the Design and Construction of the Airport Terminal Area Improvement Program**

**June 2, 2008**

**Page 6**

the subcontractor in early 2009. It was anticipated by Hensel Phelps that the retention for the steel would be released upon completion of the structural components task order. The balance of the scope of work for Terminal B was subsequently authorized as an amendment to the existing structural steel components task order, and extended the date to June 30, 2010.

The additional scope and extended completion date also extends the date that 50% of the task order work would be completed. This prevents the release of the structural steel retention even though the scope of work and completion date of the structural steel portion of the work remains unchanged. This would result in the holding of the retention for up to one year after the scope of work has been completed by the structural steel subcontractor. This cost was not anticipated in the bids submitted, and it was not staff's intention to delay the release of retention when the task order was amended.

Staff therefore recommends that the design-build contract be amended to allow the release of the retention for the structural steel work performed by the subcontractor upon completion of all structural steel work. Retention for the remaining portions of the work under the Task Order will be maintained pursuant to the terms of the design-build contract.

**Owner Controlled Insurance Program**

The City Manager's authority for premium and loss reserves for its Owner Controlled Insurance Program (OCIP) needs to be increased by an estimated \$1 million from \$25 million to \$26 million to cover the increased value of construction within the design-build contract. The OCIP cost consists of premiums and a loss reserve. A loss reserve account is set up and any approved claims are paid from the loss reserve account. The OCIP policies are then subject to final audit upon completion of the program. If payrolls and construction costs increase, an additional premium will be developed. If payrolls are less than projected a return premium would be developed. Staff recommends this change to ensure the City's and the public interest is protected with adequate insurance coverage.

**POLICY ALTERNATIVES**

Not applicable.

**PUBLIC OUTREACH/INTEREST**

- ✓ Criterion 1: Requires Council action on the use of public funds equal to \$1 million or greater; **(Required: Website Posting)**
- Criterion 2: Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**

**HONORABLE MAYOR AND CITY COUNCIL**

**Subject: Approve a Third Amendment to the Contract with Hensel Phelps Construction for the Design and Construction of the Airport Terminal Area Improvement Program**

**June 2, 2008**

**Page 7**

- Criterion 3: Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

**COORDINATION**

This memorandum has been coordinated with the City Attorney's Office and the City Manager's Budget Office.

This item has been coordinated with the SJC airlines and they are in agreement with it and support the recommendation.

**FISCAL/POLICY ALIGNMENT**

The San José Municipal Code requires that capital projects at the Airport be consistent with the adopted Airport Master Plan. The proposed actions are consistent with the Airport Master Plan pursuant to Municipal Code Section 25.04.210(B)(2).

This project is consistent with several initiatives identified in the Economic Development Strategy adopted by Council in November 2003, and aligns most significantly with *Strategic Initiative #1: Build a World-Class Airport and Air Service*.

This project is also consistent with the Guiding Principals for Budget and Financial Management in the Mayor's 2006-2007 Revised June Budget Message by supporting economic recovery and job creation.

**COST SUMMARY/IMPLICATIONS**

The recommended increase of \$27,933,000 to the design-build agreement will increase the total contract amount to \$692,110,382. These funds are available from the Terminal Area Improvement Program and the Public Art Program. The proper funding source will be used upon execution of each task order.

**1. AMOUNT OF RECOMMENDATION/COST OF PROJECT:**

Project Delivery (includes OCIP)	\$ 2,310,000
Program Reserve	\$ 0
Contingency (\$677,000 included in the Design-Build Contract)	\$ 0
Design-Build Contract Amount	<u>\$ 27,933,000</u>
<b>TOTAL PROJECT COSTS</b>	<b>\$ 30,243,000</b>
Prior Year Expenditures	\$ 0
<b>REMAINING PROJECT COSTS</b>	<b>\$ 30,243,000</b>

**HONORABLE MAYOR AND CITY COUNCIL**

**Subject: Approve a Third Amendment to the Contract with Hensel Phelps Construction for the Design and Construction of the Airport Terminal Area Improvement Program**

**June 2, 2008**

**Page 8**

**2. COST ELEMENTS OF AGREEMENT/CONTRACT BY APPROPRIATION:**

Terminal Area Improvement Program, Phase I	\$ 29,543,000
Public Art	\$ 700,000
<b>TOTAL AGREEMENT/CONTRACT AMOUNT</b>	<b>\$ 30,243,000</b>

- 3. SOURCE OF FUNDING:** 526 – Airport Revenue Bond Improvement Fund  
527 – Airport Renewal and Replacement Fund

- 4. FISCAL IMPACT:** The project has been reviewed and it was determined that it will have no significant adverse impact on the General Fund operating budget. Additional operating costs will be paid for in the Airport Operating and Maintenance Fund.

**BUDGET REFERENCE**

The table below identifies the fund and appropriations proposed to fund the contract amendment recommended as part of this memo and remaining project costs, including project delivery construction and contingency costs. Services performed by Hensel Phelps under this agreement will be authorized by task order. An appropriation is not required for execution of the proposed Third Amendment to the design-build contract but is required for each task order authorized under this Contract.

Fund #	Appn #	Appn. Name	Total Appn	Amount for Contract	2007-2008 Adopted Budget Page	Last Budget Action (Date, Ord. No.)
<b>Remaining Project Costs:</b>				<b>\$30,243,000</b>		
<b>Current Funding Available:</b>						
526 (554)	5253	Terminal Area Improvement Ph I	\$442,832,000	\$29,543,000	V-997	2/26/08 Ord. No. 28247
526 (528)	5953	Public Art	\$832,000	\$700,000	V-979	6/19/07 Ord. No. 28071
<b>Total Current Funding Available:</b>			<b>\$476,540,000</b>	<b>\$30,243,000</b>		

**HONORABLE MAYOR AND CITY COUNCIL**

**Subject: Approve a Third Amendment to the Contract with Hensel Phelps Construction for the Design and Construction of the Airport Terminal Area Improvement Program**

**June 2, 2008**

**Page 9**

**CEQA**

CEQA: Resolution Nos. 67380 and 71451, PP PP 08-099.

*Katy Allen*

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Director, Public Works Department



WILLIAM F. SHERRY, A.A.E.  
Director of Aviation  
Airport Department

For more information or answers to questions, please contact Dave Maas, Deputy Director of Aviation, at (408) 501-7704.