

3 Contracts for Structuring and Managing Risk for the Delivery of Cargo Terminal 1

- Construction Contract for construction of Cargo Terminal 1 between MOA and Construction Contractor
- Crane Agreement for procurement/installation of the Terminal 1 cranes between MOA and crane installation company (Matson)
- Tri-party Interface Agreement between MOA, Construction Contractor and Matson to promote cooperation, facilitate interface between scopes of work and establish a mechanism for allocating risk

Strategy for Managing Cost Growth – Construction Contract

- Construction Contractor's Contract Price will be comprised of lump sum items and allowances
 - For lump sum items, Construction Contractor takes the risk of quantity takeoffs and pricing through a fixed price
 - Allowance Items have 2 components – quantities and unit prices, with the Construction Contractor taking the risk of unit prices (subject to a potential adjustment of the unit prices by either MOA or Construction Contractor if the quantities vary +/- 25% of the estimated quantities and the unit price changes as a result of the variation)
 - If actual quantities are less than those estimated, the Contract Price will be reduced via a deductive Change Order
 - If actual quantities are greater, the Contract Price will be adjusted via additive Change Order

Strategy for Managing Timely Performance – Construction Contract and Crane Agreement

- Construction Contract will have 2 Scopes of Work (No. 1 & No. 2)
 - Each Scope of Work will have liquidated damages attached to untimely and unexcused performance by Construction Contractor
 - Construction Contract contains a \$1 million one off incentive if Construction Contractor can achieve completion of Scope of Work No. 1 by July 15, 2027 (which date for the purpose of the incentive payment is not subject to adjustment for any reason)
- Matson will not commence installation of the cranes until after Construction Contractor completes Scope of Work No. 1 and thereafter continue installation of cranes contemporaneously with Construction Contractor's performance of Scope of Work No. 2
 - Crane Agreement will obligate Matson to compensate MOA for damages Matson causes MOA by its untimely and unexcused performance
 - MOA only takes responsibility for the impacts of its own acts on Matson subject to a “to be” negotiated cap

Managing Interface Between Construction Contractor and Matson

- Given overlap of work between Construction Contractor and Matson, MOA will require the “contractors” to execute an Interface Agreement (together with MOA) that establishes a protocol for cooperation and interface
- Interface Agreement will also require each contractor to take responsibility for the impact of its acts/omissions on the other contractor
 - Construction Contractor (and not MOA) must reimburse Matson for delays the Construction Contractor causes
 - Matson (and not MOA) must reimburse the Construction Contractor for delays Matson causes
 - Under its respective contracts with the Construction Contractor and Matson, MOA only takes responsibility for the effects its acts/omissions have on Matson and the Construction Contractor

Timing of Finalization and Execution of the 3 Agreements

- MOA will select the Construction Contractor and finalize Construction Contract
- In parallel, MOA will finalize the Crane Agreement with Matson
- Also in parallel, Construction Contractor, Matson and MOA will finalize the Interface Agreement
- Resulting in simultaneous execution of Construction Contract, Crane Agreement and Interface Agreement