



**AGENDA REPORT**

**PROPOSED ACTION: Resolution:** Approve and Authorize the Executive Director to Execute a Memorandum of Understanding with the U.S. Army Corps of Engineers for In-Kind Services for the Oakland Harbor Turning Basins Widening Project; and Find that the Proposed Action is Exempt Under the California Environmental Quality Act (**Maritime**)

**Submitted By:** Bryan Brandes, Maritime Director; Kristi McKenney, Executive Director

**Parties Involved:**

U.S. Army Corps of Engineers;  
Timothy Shebesta, Lieutenant Colonel

**Amount:** Approximately \$4.7 million FY 2026 (capital expenditure)

**EXECUTIVE SUMMARY:** Port of Oakland (Port) Staff recommends executing an In-Kind Memorandum of Understanding (MOU) with the U.S. Army Corps of Engineers (USACE) that will provide for the Port to receive credit for the value of services performed by the Port in support of the Oakland Harbor Turning Basins Widening Project. The credit for in-kind services normally would be documented in a cost sharing design agreement for the Project; however, this agreement won't be ready for execution for some time, and Port Staff has and will continue to perform services in the interim.

**BACKGROUND & ANALYSIS**

As authorized by the Board of Port Commissioners (Board) in July 2020 and as amended in April 2023, the Port entered into a Feasibility Cost Sharing Agreement with USACE to initiate a feasibility study to review changed conditions in the Oakland Harbor since the completion of the -50 Foot Project, the impacts of these changes, and recommendations for modifications, if any. The feasibility study concluded on May 30, 2024, with a signed USACE Chief's Report recommending to Congress authorization to modify the Inner Harbor and Outer Harbor Turning Basins (Proposed Project). Congress included the Proposed Project in the Water Resources Development Act of 2024 which was signed into law on January 4, 2025.

The next steps to advance the Proposed Project involve the development of design plans and specifications, which would include a cost-sharing agreement for the Proposed Project design (Design Agreement) executed by the Port and the USACE (Parties). While the Proposed Project is federally authorized, it has not yet received federal appropriations (i.e., budget). Without federal appropriations, USACE cannot commence design activities or execute a Design Agreement. To advance the Proposed Project and maintain the current schedule, it is critical the Port undertake certain design-related work, including but not limited to field investigations, ship simulations, and early-stage engineering design, in advance of the USACE receiving federal appropriations (Port Design Work). The Port Design Work would be at the Port's sole expense; once the Design Agreement is executed, the Port Design Work will be documented as being a non-Federal cost-share

contribution of funds (i.e., cash contributions) to the Proposed Project. Port Staff estimates that the Port Design Work performed under the MOU will cost approximately \$4.7 million, of which \$450,000 will be Port labor and \$4.25 million will be third-party consulting fees. Commencing this work would be subject to future Board approvals, including adoption the FY26 Capital Budget inclusive of these funds.

The Proposed MOU would ensure (a) the Parties agree to the terms by which the Port Design Work will advance and (b) the Port's expenditure is properly credited toward the non-Federal contribution of funds for the Proposed Project in the planned future Design Agreement. If a Design Agreement is not ultimately executed by the Parties, and the Port proceeds under future Board approvals, the Port will not receive this credit for costs incurred for the Port Design Work.

### **OTHER FINDINGS AND PROVISIONS**

#### **ENVIRONMENTAL REVIEW**

The proposed action was analyzed under the California Environmental Quality Act (CEQA) and was found to be:

☐ Categorically exempt under the following CEQA Guidelines Section:

Choose an item.

☒ "Common Sense" exemption under CEQA Guidelines Section 15061(b)(3).

☒ Other/Notes: The CEQA determination is limited to this MOU only and does not constitute approval of the Proposed Project, for which a Final Environmental Impact Report has not yet been certified.

#### **BUDGET**

☐ Administrative (No Impact to Operating, Non-Operating, or Capital Budgets); OR

☐ Operating

☐ Non-Operating

☒ Capital

Analysis: The Maritime Division's FY 2026-2030 Capital Improvement Plan and FY 2026 Capital Budget are currently under development and include \$4.7 million for the subject Port Design Work in FY 2026. The Design Work is anticipated to commence after the Board's consideration of the FY 2026 proposed Capital Budget. Therefore, should the proposed Capital Budget not be adopted, approval of the MOU would not expose the Port to unrecoverable expenditures.

**STAFFING**

☒ No Anticipated Staffing Impact.

☐ Anticipated Change to Budgeted Headcount.

Reason:

☐ Other Anticipated Staffing Impact (e.g., Temp Help).

Reason:

**MARITIME AND AVIATION PROJECT  
LABOR AGREEMENT (MAPLA):**

Applies? No (Other) - see explanation below.

☒ Additional Notes: Agreement is not a contract for services.

**LIVING WAGE** (City Charter § 728):

Applies?

No (No Covered Agreement) – proposed action is not an agreement, contract, lease, or request to provide financial assistance within the meaning of the Living Wage requirements.

☐ Additional Notes:

**SUSTAINABLE OPPORTUNITIES:**

Applies? **No.**

Reason: Agreement is not a contract for services.

**GENERAL PLAN** (City Charter § 727):

Conformity Determination:

No Project – conformity determination not required because proposed action does not change use of or make alterations to an existing facility, or create a new facility.

**STRATEGIC PLAN.** The proposed action would help the Port achieve the following goal(s) in the Port's Strategic Plan:

☐ Capture Our Market and Grow the Economic Base

☒ Modernize and Upgrade Infrastructure

☐ Transition to Zero-Emissions and Build Climate Resilience

☐ Maximize Land Use Value and Revenues

☐ Workforce Training and Jobs Development

☐ Create Opportunities for Local Businesses and Community Economic Development