



**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 23-98

RESOLUTION APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE PROJECT SUPPLEMENT AGREEMENT NO. 3 WITH THE CALIFORNIA STATE TRANSPORTATION AGENCY, AUTHORIZING \$144,246,480 IN STATE FUNDING TO BE DISTRIBUTED TO THE PORT OF OAKLAND FOR VARIOUS DESIGN AND CONSTRUCTION PROJECTS, AND FINDING THAT THE PROPOSED ACTION IS EXEMPT UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report for Agenda Item No. 2.4, dated November 30, 2023, and related agenda materials ("Agenda Report"), has received the expert testimony of Port of Oakland ("Port") staff, and has provided opportunities for and taken public comment; and

WHEREAS, that in acting upon this matter, the Board has exercised its independent judgment based on substantial evidence in the record and adopts and relies upon the facts, data, analysis, and findings set forth in the Agenda Report and in testimony received;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

Section 1. Based upon the information contained in the Agenda Report and in testimony received, the Board hereby finds and determines that the proposed action is categorically and statutorily exempt from the California Environmental Quality Act ("CEQA"), as further described in the attachment to this resolution.

Section 2. The Board hereby approves and authorizes the Executive Director to:

- A. Execute Project Supplement No. 3 with the **California State Transportation Agency (CalSTA)** authorizing \$144,246,480 in State funding to be distributed to the Port for various design and construction projects, as further described in the Agenda Report, subject to approval as to form and legality by the Port Attorney; and
- B. Make any additions, modifications, or corrections necessary to execute the requested agreement or to correct errors, subject to the limitations set forth herein, provided that any addition,

modification, or correction does not materially differ from the terms and conditions set forth herein and in the Agenda Report, and are approved as to form and legality by the Port Attorney.

Section 3. This resolution is not evidence of and does not create or constitute: (a) a contract, or the grant of any right, entitlement, or property interest; or (b) any obligation or liability on the part of the Board or any officer or employee of the Port. This resolution approves and authorizes the execution of a contract in accordance with the terms of this resolution. Unless and until a separate written contract is duly executed on behalf of the Board as authorized by this resolution, is signed as approved as to form and legality by the Port Attorney, and is delivered to other contracting party, there shall be no valid or effective contract.

Section 4. This resolution shall be effective immediately upon adoption by the Board.

At the Regular Meeting held on November 30, 2023

Passed by the following vote:

Ayes: Commissioners: Cluver, Colbruno, Dominguez Walton, Martinez, Myres, and President Leslie – 6

Excused: First Vice-President Lee – 1

Noes: 0

Attachment

CEQA Statutory and Categorical Exemptions

Subprojects	CEQA Exemptions
<p>Subproject 1: Embarcadero Corridor (South of Clay thru Oak) - Surface Improvements (Potential Construction)</p>	<p>Public Resources Code § 21080.25(b)(1) exempts from CEQA “[p]edestrian and bicycle facilities that improve safety, access, or mobility, including new facilities, within the public right-of-way.” Here, Subproject 1 consists of improvements, including a dedicated space for a multiuse trails, to improve the safety and operational efficiencies of the movement of persons and goods along this congested corridor. Thus, Subproject 1 is statutorily exempt from CEQA pursuant to Public Resources Code § 21080.25(b)(1).</p> <p>Public Resources Code § 21080.20 applies to “an active transportation plan, a pedestrian plan, or a bicycle transportation plan for the restriping of streets and highways, bicycle parking and storage, signal timing to improve street and highway intersection operations, and the related signage for bicycles, pedestrians, and vehicles.” Subproject 1 is an active transportation plan, a pedestrian plan, and bicycle transportation plan to encourage the increased use of active modes of transportation. The dedicated space for a multiuse trail, limiting and eliminating access for motor vehicles, installing fencing and barriers to better define the railroad operating right of way, and modernizing the at grade railroad crossings will increase safety and mobility for non-motorized users by separating modes of travel so that railroad operators, motor vehicle drivers, pedestrians, cyclists, and other mobility users have defined areas of use/operations. Thus, Subproject 1 is statutorily exempt pursuant to Public Resources Code § 21080.20.</p> <p>State CEQA Guidelines § 15301(c) [Class 1 – Existing Facilities] “consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.” This includes existing highways and streets, bicycle and pedestrian trails, and similar facilities (such as road grading for the purpose of public safety, and other alterations such as the addition of bicycle facilities, transit improvements such as bus lanes, pedestrian crossings, street trees, and other similar alterations that do not create additional automobile lanes). Subproject 1 will result in a negligible or no expansion of an existing or former use. Instead, the project will involve minor alterations to a multiuse trail and railroad crossings that limit or eliminate access for motor vehicles to improve</p>

Subprojects	CEQA Exemptions
	<p>safety and operational efficiencies for the existing corridor. Thus, Subproject 1 is exempt pursuant to Class 1.</p> <p>State CEQA Guidelines § 15302 [Class 2 – Replacement and Reconstruction] “consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced.” Subproject 1 will improve and replace the existing modes of travel within this corridor. The improvements, such as the creating clearly defined areas of use/operations between railroad operations, pedestrian, and bicycle paths, will have substantially the same purpose and capacity as the existing corridor. Thus, Subproject 1 is exempt pursuant to the Class 2 exemption.</p> <p>State CEQA Guidelines § 15304(h) [Class 4 – Minor Alterations to Land] consists of the “minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry and agricultural purposes”, including the creation of bicycle lanes on existing rights-of-way. Here, the proposed project will include infrastructure improvements such as a multiuse trail, as well as other improvements to the existing rights-of-way within the corridor to accommodate the increasing volume of users such as railroad operators, motor vehicle drivers, pedestrians, and cyclists. Subproject 1 will not involve the removal of healthy, mature scenic trees and thus, Subproject 1 is exempt pursuant to Class 4.</p> <p>See accompanying explanation as to why none of the exemptions under State CEQA Guidelines section 15300.2 apply.</p>
<p>Subproject 2: Embarcadero Corridor (Market thru Clay) - Surface Improvements (Potential Construction)</p>	<p>Public Resources Code § 21080.25(b)(1) exempts from CEQA “[p]edestrian and bicycle facilities that improve safety, access, or mobility, including new facilities, within the public right-of-way.” Here, Subproject 2 consists of improvements, including a dedicated space for a multiuse trails, to improve the safety and operational efficiencies of the movement of persons and goods along this congested corridor. Thus, Subproject 2 is statutorily exempt from CEQA pursuant to Public Resources Code § 21080.25(b)(1).</p> <p>Public Resources Code § 21080.20 applies to “an active transportation plan, a pedestrian plan, or a bicycle transportation plan for the restriping of streets and highways, bicycle parking and storage, signal</p>

Subprojects	CEQA Exemptions
	<p>timing to improve street and highway intersection operations, and the related signage for bicycles, pedestrians, and vehicles.” Subproject 2 is an active transportation plan, a pedestrian plan, and bicycle transportation plan to encourage the increased use of active modes of transportation. The dedicated space for a multiuse trail, limiting and eliminating access for motor vehicles, installing fencing and barriers to better define the railroad operating right of way, and modernizing the at grade railroad crossings will increase safety and mobility for non-motorized users by separating modes of travel so that railroad operators, motor vehicle drivers, pedestrians, cyclists, and other mobility users have defined areas of use/operations. Thus, Subproject 2 is statutorily exempt from CEQA pursuant to Public Resources Code § 21080.20.</p> <p>State CEQA Guidelines § 15301(c) [Class 1 – Existing Facilities] “consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.” This includes existing highways and streets, bicycle and pedestrian trails, and similar facilities (such as road grading for the purpose of public safety, and other alterations such as the addition of bicycle facilities, transit improvements such as bus lanes, pedestrian crossings, street trees, and other similar alterations that do not create additional automobile lanes). Subproject 2 will result in a negligible or no expansion of an existing or former use. Instead, the project will involve minor alterations to a multiuse trail and railroad crossings that limit or eliminate access for motor vehicles to improve safety and operational efficiencies for the existing corridor. Thus, Subproject 2 is exempt pursuant to Class 1.</p> <p>State CEQA Guidelines § 15302 [Class 2 – Replacement and Reconstruction] “consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced.” Subproject 2 will improve and replace the existing modes of travel within this corridor. The improvements, such as the creating clearly defined areas of use/operations between railroad operations, pedestrian, and bicycle paths, will have substantially the same purpose and capacity as the existing corridor. Thus, Subproject 2 is exempt pursuant to Class 2.</p> <p>State CEQA Guidelines § 15304(h) [Class 4 – Minor Alterations to Land] consists of the “minor public or private alterations in the condition of land, water, and/or vegetation which do not involve</p>

Subprojects	CEQA Exemptions
	<p>removal of healthy, mature, scenic trees except for forestry and agricultural purposes”, including the creation of bicycle lanes on existing rights-of-way. Here, the proposed project will include infrastructure improvements such as a multiuse trail, as well as other improvements to the existing rights-of-way within the corridor to accommodate the increasing volume of users such as railroad operators, motor vehicle drivers, pedestrians, and cyclists. Subproject 2 will not involve the removal of healthy, mature scenic trees, and thus falls under the Class 4 exemption.</p> <p>See accompanying explanation as to why none of the exemptions under State CEQA Guidelines section 15300.2 apply.</p>
<p>Subproject 3: Railroad Grade Separation Feasibility Study (Planning/Design Work)</p>	<p>State CEQA Guideline § 15262 – CEQA does not apply to feasibility or planning studies that will not have a legally binding effect on later activities and so local agency feasibility or planning studies for possible future actions that that the local agency, board, or commission has not approved, adopted, or funded. Here, Subproject 3 is only a feasibility study and so is exempt from CEQA as it will not have a legally binding effect on later activities.</p>
<p>Subproject 4: Overweight & Emergency Vehicle Corridor between Middle Harbor Road and Embarcadero/Market (Potential Construction)</p>	<p>State CEQA Guidelines §15301(c) [Class 1 – Existing Facilities] “consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.” This includes existing highways and streets, bicycle and pedestrian trails, and similar facilities (such as road grading for the purpose of public safety, and other alterations such as the addition of bicycle facilities, transit improvements such as bus lanes, pedestrian crossings, street trees, and other similar alterations that do not create additional automobile lanes). Subproject 4 will involve the design and relocation of an existing permitted heavy weight vehicle route. The new roadway will also provide secondary emergency vehicle access to the waterfront, and will result in a negligible or no expansion of an existing use. Subproject 4 falls within the scope of the Class 1 exemption.</p>

Subprojects	CEQA Exemptions
	<p>State CEQA Guidelines § 15302 [Class 2 – Replacement and Reconstruction] “consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced.” The proposed project consists of the replacement and relocation of an existing permitted heavy weight vehicle route within the same corridor. The new permitted heavy weight vehicle route will have substantially the same purpose and capacity as the route replaced. Subproject 4 is therefore exempt pursuant to Class 2.</p> <p>State CEQA Guidelines § 15304(h) [Class 4 – Minor Alterations to Land] consists of the “minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry and agricultural purposes”. Here, the proposed project will include the relocation of an existing permitted heavy weight vehicle route and emergency vehicle access roadway, which will involve minor alterations to the land. No healthy mature scenic trees will be removed. Subproject 4 therefore falls within the parameters of Class 4.</p> <p>See accompanying explanation as to why none of the exemptions under State CEQA Guidelines section 15300.2 apply.</p>
<p>Subproject 5: Adeline Street Corridor Traffic Improvements (I-880 Off-ramp to 3rd St)</p> <p>(Planning/Design Work)</p>	<p>State CEQA Guideline § 15262 – CEQA does not apply to feasibility or planning studies that will not have a legally binding effect on later activities and so local agency feasibility or planning studies for possible future actions that that the local agency, board, or commission has not approved, adopted, or funded. Here, Subproject 5 is only a design and planning study and so is exempt from CEQA as it will not have a legally binding effect on later activities.</p>
<p>Subproject 6: Crash Analysis Improvements (Brush at 17th and 18th,</p>	<p>State CEQA Guideline § 15262 – CEQA does not apply to feasibility or planning studies that will not have a legally binding effect on later activities and so local agency feasibility or planning studies for possible future actions that that the local agency, board, or commission has not approved, adopted, or</p>

Subprojects	CEQA Exemptions
Castro/5th, MLK/17th) (Planning/Design Work)	funded. Here, Subproject 6 is only a design and planning study and so is exempt from CEQA as it will not have a legally binding effect on later activities.
Subproject 7: Market Street Corridor Streetscape Improvements (3rd St. to 7th St.) (Planning/Design Work)	State CEQA Guideline § 15262 – CEQA does not apply to feasibility or planning studies that will not have a legally binding effect on later activities and so local agency feasibility or planning studies for possible future actions that that the local agency, board, or commission has not approved, adopted, or funded. Here, Subproject 7 is only a design and planning study and so is exempt from CEQA as it will not have a legally binding effect on later activities.
Subproject 8: 3rd Street Corridor Streetscape Improvements (Market to Franklin) (Planning/Design Work)	State CEQA Guideline § 15262 – CEQA does not apply to feasibility or planning studies that will not have a legally binding effect on later activities and so local agency feasibility or planning studies for possible future actions that that the local agency, board, or commission has not approved, adopted, or funded. Here, Subproject 8 is only a design and planning study and so is exempt from CEQA as it will not have a legally binding effect on later activities.
Subproject 9: MLK Corridor Streetscape Improvements (2nd St. to 12th St.)	Public Resources Code § 21080.25(b)(1) exempts from CEQA “[p]edestrian and bicycle facilities that improve safety, access, or mobility, including new facilities, within the public right-of-way.” Here, Subproject 9 will improve the local thoroughfare that accommodates low-stress mobility for pedestrians, bicyclists, transit users and motor vehicles. Thus, Subproject 9 is statutorily exempt from CEQA pursuant to Public Resources Code § 21080.25(b)(1).

Subprojects	CEQA Exemptions
(Potential Construction)	<p>Public Resources Code § 21080.20 applies to “an active transportation plan, a pedestrian plan, or a bicycle transportation plan for the restriping of streets and highways, bicycle parking and storage, signal timing to improve street and highway intersection operations, and the related signage for bicycles, pedestrians, and vehicles.” Subproject 9 is an active transportation plan, a pedestrian plan, and bicycle transportation plan to encourage local pedestrians and bicyclists to use this low-stress corridor along Martin Luther King Jr. Way which will reduce local trips along important truck routes to/from the Port of Oakland. Subproject 9 is statutorily exempt pursuant to Public Resources Code § 21080.20.</p> <p>State CEQA Guidelines § 15301(c) [Class 1 – Existing Facilities] “consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.” This includes existing highways and streets, bicycle and pedestrian trails, and similar facilities (such as road grading for the purpose of public safety, and other alterations such as the addition of bicycle facilities, transit improvements such as bus lanes, pedestrian crossings, street trees, and other similar alterations that do not create additional automobile lanes). Subproject 9 will not result in an expansion of an existing or former use. Instead, the project will involve minor improvements to the existing corridor along Martin Luther King Jr. Way to accommodate low-stress mobility for pedestrians, bicyclists, transit users, and motor vehicles. Subproject 9 therefore is exempt pursuant to Class 1.</p> <p>State CEQA Guidelines § 15302 [Class 2 – Replacement and Reconstruction] “consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced.” Subproject 9 will reconstruct the corridor along Martin Luther King Jr. Way to improve this local thoroughfare, which will be located on the same site, and will have substantially the same purpose and capacity. Subproject 9 falls within the scope of the Class 2 exemption.</p> <p>State CEQA Guidelines § 15304(h) [Class 4 – Minor Alterations to Land] consists of the “minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry and agricultural purposes”, including the creation of bicycle lanes on existing rights-of-way. Here, the proposed designs will improve the local</p>

Subprojects	CEQA Exemptions
	<p>thoroughfare with minor public alterations in the condition of land. Subproject 9 will not involve the removal of healthy, mature scenic trees and is therefore exempt pursuant to Class 4.</p> <p>See accompanying explanation as to why none of the exemptions under State CEQA Guidelines section 15300.2 apply.</p>
<p>Subproject 10: 7th Street Corridor Streetscape Improvements (Mandela to MLK - including Brush/Castro)</p> <p>(Potential Construction)</p>	<p>Public Resources Code § 21080.25(b)(1) exempts from CEQA “[p]edestrian and bicycle facilities that improve safety, access, or mobility, including new facilities, within the public right-of-way.” Here, Subproject 10 consists of improvements to install new protected bike lanes, modify existing traffic signals, install new fiber optic cabling to interconnect all traffic signals on the corridor, potentially install a new traffic signal, provide additional lighting, improve sidewalks and curb ramps, and install new street trees. These will improve multi-modal safety and accessibility by separating bicyclists from truck, transit, and vehicular traffic, improving intersection safety for all modes, especially pedestrians. Thus, Subproject 10 is statutorily exempt from CEQA pursuant to Public Resources Code § 21080.25(b)(1).</p> <p>Public Resources Code § 21080.20 applies to “an active transportation plan, a pedestrian plan, or a bicycle transportation plan for the restriping of streets and highways, bicycle parking and storage, signal timing to improve street and highway intersection operations, and the related signage for bicycles, pedestrians, and vehicles.” Subproject 10 is an active transportation plan, a pedestrian plan, and bicycle transportation plan to improve multi-modal safety and accessibility by separating bicyclists from truck, transit, and vehicular traffic. Subproject also improves intersection safety for all modes, especially pedestrians. Subproject 10 is statutorily exempt pursuant to Public Resources Code § 21080.20.</p> <p>State CEQA Guidelines § 15301(c) [Class 1 – Existing Facilities] “consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.” This includes existing highways and streets, bicycle and pedestrian trails, and similar facilities (such as road grading for the purpose of public safety, and other alterations such as the addition of bicycle facilities, transit improvements such as bus lanes, pedestrian crossings, street trees, and other similar alterations that do not create additional automobile lanes). Here, Subproject 10 will include the repair, maintenance, and minor alteration to the existing corridor between Mandela Parkway and</p>

Subprojects	CEQA Exemptions
	<p>Martin Luther King Jr. Way. There will be negligible or no expansion of existing or former use. Subproject 10 therefore is exempt pursuant to Class 1.</p> <p>State CEQA Guidelines § 15302 [Class 2 – Replacement and Reconstruction] “consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced.” Subproject 10 will improve and replace the existing multi-modal use of the corridor. The improvements will take place on the same site as the corridor, and will have substantially the same purpose and capacity as the existing corridor. Subproject 10 falls within the scope of the Class 2 exemption.</p> <p>State CEQA Guidelines § 15304(h) [Class 4 – Minor Alterations to Land] consists of the “minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry and agricultural purposes”, including the creation of bicycle lanes on existing rights-of-way. Here, the new protected bike lanes, modifications to existing traffic signals, installation of new fiber optic cabling, installation of a new traffic signal, additional lighting, improvement of sidewalks and curb ramps, and installation of new street trees are all minor public alterations in the condition of land which do not involve removal of healthy, mature scenic trees. Subproject 10 is therefore exempt pursuant to Class 4.</p> <p>See accompanying explanation as to why none of the exemptions under State CEQA Guidelines section 15300.2 apply.</p>
<p>Subproject 11: Broadway Corridor Transit & Pedestrian Improvements (2nd St. to 11th)</p> <p>(Potential Construction)</p>	<p>Public Resources Code § 21080.25(b)(1) exempts from CEQA “[p]edestrian and bicycle facilities that improve safety, access, or mobility, including new facilities, within the public right-of-way.” Here, Subproject 11 consists of a dedicated bus only lane in each direction, modification of existing traffic signals, installation of new traffic signals, addition of new lighting, improvement of sidewalks and curb ramps, and installation of new street trees. These improvements will improve access to reliable transit along Broadway, encouraging more people to use transit and therefore eliminating vehicle trips along vital goods movement corridors to/from the Port of Oakland. Thus, Subproject 11 is statutorily exempt from CEQA pursuant to Public Resources Code § 21080.25(b)(1).</p>

Subprojects	CEQA Exemptions
	<p>Public Resources Code § 21080.20 applies to “an active transportation plan, a pedestrian plan, or a bicycle transportation plan for the restriping of streets and highways, bicycle parking and storage, signal timing to improve street and highway inter§ operations, and the related signage for bicycles, pedestrians, and vehicles.” Improvements associated with Subproject 11, such as a dedicated bus only lane, modifying existing traffic signals, installing new traffic signals, providing additional lighting, improving sidewalks and curb ramps, and installing new street trees, will encourage the increased use of transit and eliminate vehicle trips. Subproject 11 is statutorily exempt pursuant to Public Resources Code § 21080.20.</p> <p>State CEQA Guidelines § 15301(c) [Class 1 – Existing Facilities] “consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.” This includes existing highways and streets, bicycle and pedestrian trails, and similar facilities (such as road grading for the purpose of public safety, and other alterations such as the addition of bicycle facilities, transit improvements such as bus lanes, pedestrian crossings, street trees, and other similar alterations that do not create additional automobile lanes). Subproject 11 will involve the repair, maintenance, and minor alterations of the existing corridor on Broadway between 2nd Street and 11th Street. The improvements will have negligible or no expansion of existing or former use. Subproject 11 therefore is exempt pursuant to Class 1.</p> <p>State CEQA Guidelines § 15302 [Class 2 – Replacement and Reconstruction] “consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced.” Subproject 11 will reconstruct certain improvements on Broadway between 2nd Street and 11th Street. Subproject will be located on the same site as the existing corridor and will have substantially the same purpose and capacity as the existing corridor. Subproject 11 thus falls within the scope of the Class 2 exemption.</p> <p>State CEQA Guidelines § 15304(h) [Class 4 – Minor Alterations to Land] consists of the “minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry and agricultural purposes”, including the creation of bicycle lanes on existing rights-of-way. Here, the proposed enhancements are minor public</p>

Subprojects	CEQA Exemptions
	<p>alterations in the condition of land, including a dedicated bus only lane, modifying existing traffic signals, installing new traffic signals, and providing additional lighting. Subproject 11 will not involve the removal of healthy, mature scenic trees and is therefore exempt pursuant to Class 4.</p> <p>See accompanying explanation as to why none of the exemptions under State CEQA Guidelines section 15300.2 apply.</p>
<p>Subproject 12: I-880/I-980 Undercrossings (Potential Construction)</p>	<p>Public Resources Code § 21080.25(b)(1) exempts from CEQA “[p]edestrian and bicycle facilities that improve safety, access, or mobility, including new facilities, within the public right-of-way.” Here, Subproject 12 consists of the conceptual design development, final design and construction for the I-880 and I-980 undercrossings by including accessible curb ramps and basic lighting elements along Washington Street, and enhanced features such as placemaking, enhanced lighting, and fencing or retaining walls as appropriate along all undercrossings. These improvements will encourage people to use these undercrossings to walk or bike between neighborhoods. Thus, Subproject 12 is statutorily exempt from CEQA pursuant to Public Resources Code § 21080.25(b)(1).</p> <p>Public Resources Code § 21080.20 applies to “an active transportation plan, a pedestrian plan, or a bicycle transportation plan for the restriping of streets and highways, bicycle parking and storage, signal timing to improve street and highway intersection operations, and the related signage for bicycles, pedestrians, and vehicles.” The improvements to the undercrossing locations are part of an active transportation plan, pedestrian plan, or bicycle transportation plan to encourage the increased use of bicycles and pedestrian walkways to reduce vehicle travel and congestion. Subproject 12 is statutorily exempt pursuant to Public Resources Code § 21080.20.</p> <p>State CEQA Guidelines § 15301(c) [Class 1 – Existing Facilities] “consists of the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use.” This includes existing highways and streets, bicycle and pedestrian trails, and similar facilities (such as road grading for the purpose of public safety, and other alterations such as the addition of bicycle facilities, transit improvements such as bus lanes, pedestrian crossings, street trees, and other similar alterations that do not create additional automobile lanes). Subproject 12 will involve the operation, repair, maintenance, and minor alterations to the undercrossings to address safety concerns and</p>

Subprojects	CEQA Exemptions
	<p>to encourage pedestrians and bicyclists to use these undercrossings. The improvements will have negligible or no expansion of existing or former use. Subproject 12 therefore is exempt pursuant to Class 1.</p> <p>State CEQA Guidelines § 15302 [Class 2 – Replacement and Reconstruction] “consists of replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced.” The enhancements for this project will include accessible curb ramps and basic lighting elements, and fencing or retaining walls as appropriate along the undercrossings. Subproject will be located on the same site as the existing corridor and will have substantially the same purpose and capacity as the existing corridor. Subproject 12 thus falls within the scope of the Class 2 exemption.</p> <p>State CEQA Guidelines § 15304(h) [Class 4 – Minor Alterations to Land] consists of the “minor public or private alterations in the condition of land, water, and/or vegetation which do not involve removal of healthy, mature, scenic trees except for forestry and agricultural purposes”, including the creation of bicycle lanes on existing rights-of-way. Here, the proposed enhancements are minor public alterations in the condition of land, including accessible curb ramps, basic lighting elements, and fencing or retaining walls. Subproject 12 will not involve the removal of healthy, mature scenic trees and is therefore exempt pursuant to Class 4.</p> <p>See accompanying explanation as to why none of the exemptions under State CEQA Guidelines section 15300.2 apply.</p>
<p>Subproject 13: Downtown Parking Management (Planning/Design Work)</p>	<p>State CEQA Guideline § 15262 – CEQA does not apply to feasibility or planning studies that will not have a legally binding effect on later activities and so local agency feasibility or planning studies for possible future actions that that the local agency, board, or commission has not approved, adopted, or funded. Here, Subproject 13 is only a design and planning study and so is exempt from CEQA as it will not have a legally binding effect on later activities. Furthermore, parking is not an environmental impact under CEQA and therefore parking management issues as studied in this plan are not subject to CEQA. (<i>San Franciscans Upholding the Downtown Plan v City & County of San Francisco</i> (2002) 102 Cal.App.4th 656, 697; Pub. Resources Code, §§ 21099(b)(3), 21099(d)(1).)</p>

Subprojects	CEQA Exemptions
<p>Subproject 14: 8th St Sidewalk Improvements (Planning/Design Work)</p>	<p>State CEQA Guideline § 15262 – CEQA does not apply to feasibility or planning studies that will not have a legally binding effect on later activities and so local agency feasibility or planning studies for possible future actions that that the local agency, board, or commission has not approved, adopted, or funded. Here, Subproject 14 is only a design and planning study and so is exempt from CEQA as it will not have a legally binding effect on later activities.</p>
<p>Subproject 15: 2nd Street Transit Hub & Bike Gap Closure Improvements (Brush and Broadway) (Planning/Design Work)</p>	<p>State CEQA Guideline § 15262 – CEQA does not apply to feasibility or planning studies that will not have a legally binding effect on later activities and so local agency feasibility or planning studies for possible future actions that that the local agency, board, or commission has not approved, adopted, or funded. Here, Subproject 15 is only a design and planning study and so is exempt from CEQA as it will not have a legally binding effect on later activities.</p>

**California State Transportation Agency Project Supplement No. 3
California Environmental Quality Act**

Exceptions to Categorical Exemptions Review

With regard to Subprojects 1, 2, 4, 9, 10, 11, and 12, which the Port of Oakland has determined to be categorically exempt, the following provides a determination under Section 15300.2 of the *State CEQA Guidelines*, which provides exceptions to the identified categorical exemptions, and a brief assessment of the *State CEQA Guidelines* Appendix G Initial Study Checklist resource topics that are applicable to the project (under “Exceptions to Categorical Exemptions” Item C). The *State CEQA Guidelines* list the following exceptions to the Categorical Exemptions in Article 19 (see Section 15300.2). In the discussion below, each subsection (in italics) is followed by an explanation of why these exceptions do not apply to all seven proposed Subprojects identified in the California State Transportation Agency Project Supplement No. 3 (Proposed Projects). Refer to **Figures 1 to 7** for approximate locations of the Proposed Projects.

State CEQA Guidelines § 15300.2 Exceptions to Categorical Exemptions	The exceptions do not apply to Subprojects 1, 2, 4, 9, 10, 11, and 12
<p><i>(a) Location. Classes 3, 4, 5, 6, and 11 are qualified by consideration of where the project is to be located – a project that is ordinarily insignificant in its impact on the environment may in a particularly sensitive environment be significant. Therefore, these classes are considered to apply in all instances, except where the project may impact on an environmental resource of hazardous or critical concern where designated, precisely mapped, and officially adopted pursuant to law by federal, state, or local agencies.</i></p>	<p>The Proposed Projects’ sites do not include any federal, state, or local precisely mapped areas of hazardous or critical concern. The Proposed Projects therefore will not impact an environmental resource of hazardous or critical concern.</p>
<p><i>(b) Cumulative Impact. All exemptions for these classes are inapplicable when the cumulative impact of successive projects of the same type in the same place, over time is significant.</i></p>	<p>There are no projects either approved or under construction in immediate proximity (“of the same type in the same place”) to the Proposed Projects. The Proposed Projects therefore will not have significant cumulative impacts of successive projects of the same type in the same place.</p>
<p><i>(c) Significant Effect. A categorical exception shall not be used for an activity where there is a reasonable possibility that the activity will have</i></p>	<p>For a project to have a significant impact to the environment due to unusual circumstances, substantial evidence must show the project would have a significant effect on the environment, or the project is unusual because it has some feature, such</p>

<p><i>a significant effect on the environment due to unusual circumstances.</i></p>	<p>as its size or location, that distinguishes it from other projects that would be similarly exempt, and there is a reasonable possibility of a significant effect due to that unusual circumstance.</p> <p>The Proposed Projects would be consistent with applicable land use and zoning designations for the Proposed Projects' sites and surrounding area. The Proposed Projects would therefore be consistent with the type and intensity of development anticipated in this area. Moreover, the Proposed Projects are subject to applicable local, State, and/or federal regulations and would not result in significant impacts to the environment. Accordingly, the Proposed Projects would not have a significant effect on the environment due to unusual circumstances and therefore are not subject to the Significant Effect Exception (Section 15300.2(c)).</p>
<p><i>(d) Scenic Highways. A categorical exemption shall not be used for a project which may result in damage to scenic resources, including but not limited to, trees, historic buildings, rock outcroppings, or similar resources, within a highway officially designated as a state scenic highway.</i></p>	<p>The Proposed Projects would not result in any changes or damage to trees, historic buildings, rock outcroppings, or similar resources within a highway officially designated as a state scenic highway. No existing scenic rock outcroppings are within Proposed Projects' limits or any structures that would be eligible for listing as historic resources. The Proposed Projects would not result in any damage to scenic resources.</p>
<p><i>(e) Hazardous Waste Sites. A categorical exemption shall not be used for a project located on a site which is included on any list compiled pursuant to Section 65962.5 of the Government Code.</i></p>	<p>Hazardous materials sites compiled pursuant to Government Code Section 65962.5 are listed on the "Cortese List" (named after the Legislator who authored the legislation that enacted it), which is maintained by the California Department of Toxic Substances Control. The Proposed Projects' sites are not on any list of hazardous material sites compiled pursuant to Government Code Section 65962.5 and therefore the Proposed Projects are not subject to the Hazardous Waste Sites Exception (Section 15300.2(c)).</p>
<p><i>(f) Historical Resources. A categorical exemption shall not be used for a project which may cause a substantial adverse change in the significance of a historical resource.</i></p>	<p>To be considered a historical resource pursuant to State CEQA Guidelines Section 15064.5, the property must be associated with events that have made a significant contribution to the broad patterns of local or regional history or the cultural heritage of California or the United States; be associated with the lives of persons important to local, California or national history; embody the distinctive characteristics of a type, period, region, or method of construction or represents the work of a master or possesses high artistic values; or have yielded, or have the potential to yield, information important to the prehistory or history of the local area, California, or the nation. In addition, the City has officially designated five buildings, structures, or</p>

sites within the downtown area as historic landmarks; none of these are in or adjacent to the Proposed Projects' sites.

The Proposed Projects' sites do not contain any structures that meet any of the specified criteria for significance in order to be considered a historical resource pursuant to State CEQA Guidelines Section 15064.5. Therefore, the Proposed Projects are not subject to the Historical Resources Exception (Section 15300.2(e)).

Figure 1: Subproject 1 – Reconstructing Embarcadero West Between Oak Street to Clay Street (highlighted in yellow)

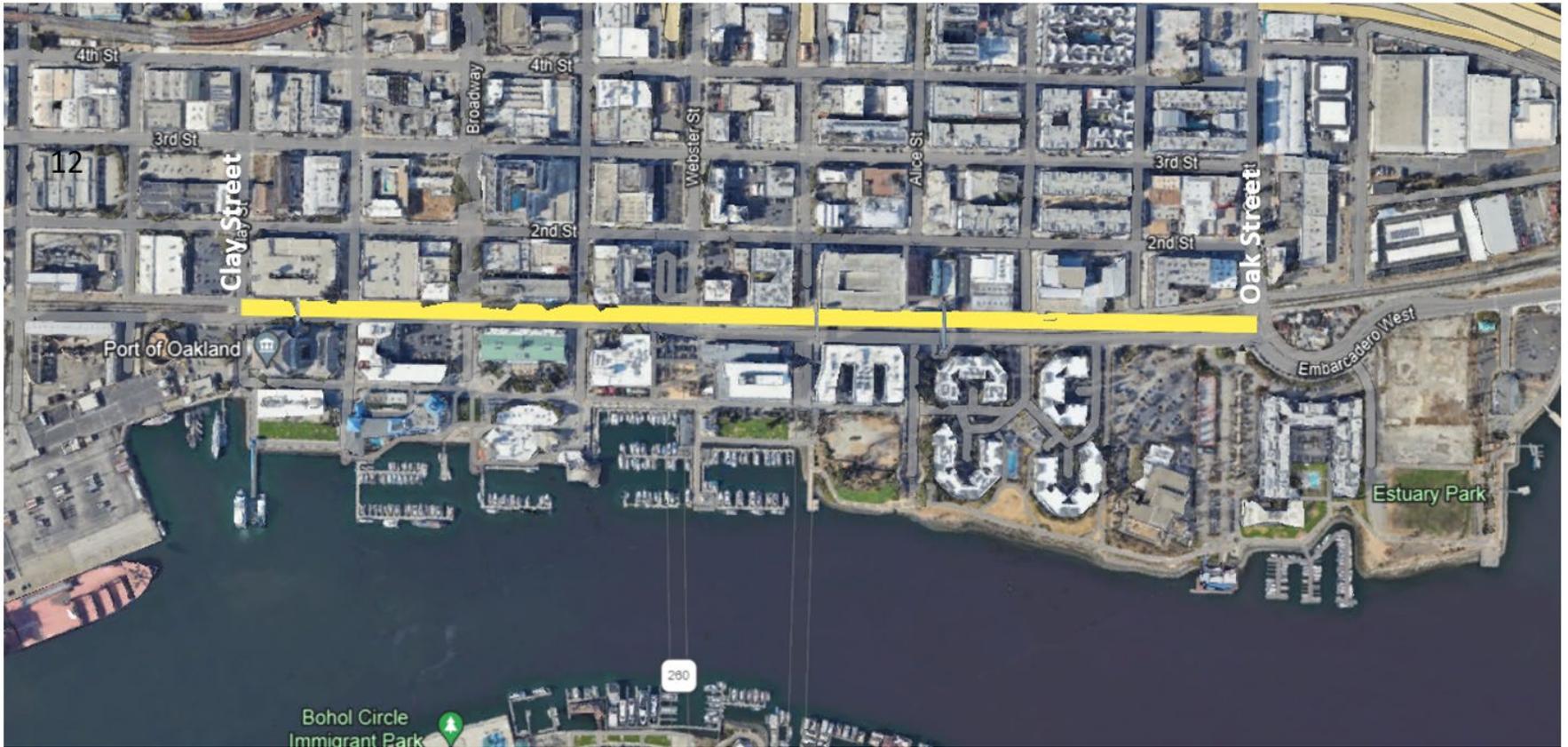


Figure 2: Subproject 2 – Reconstructing Embarcadero West between Clay Street to Market Street (highlighted in yellow)

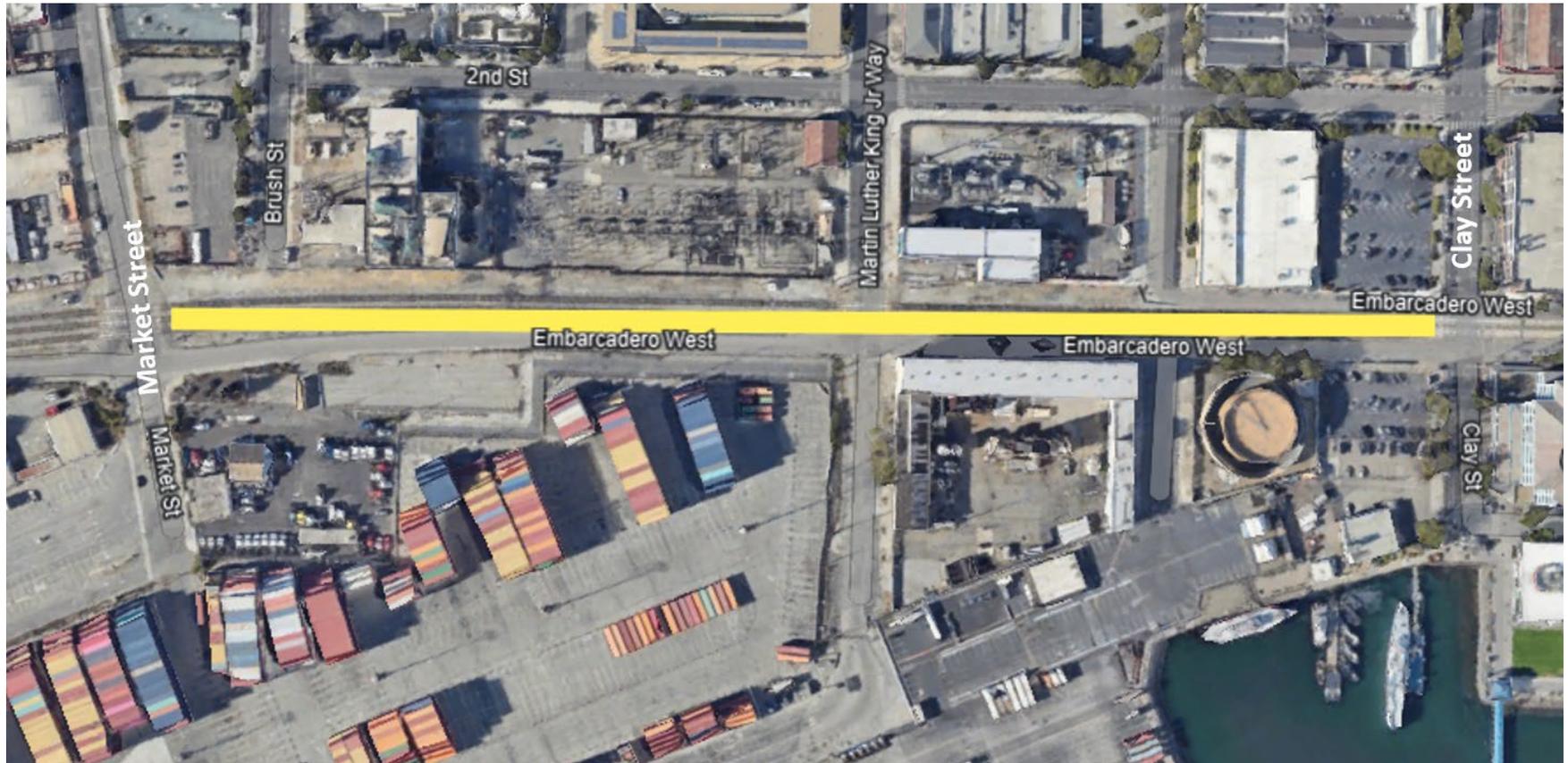


Figure 3: Subproject 4 – Install a New Permitted Heavy Weight Vehicle Route and Emergency Vehicle Access Roadway

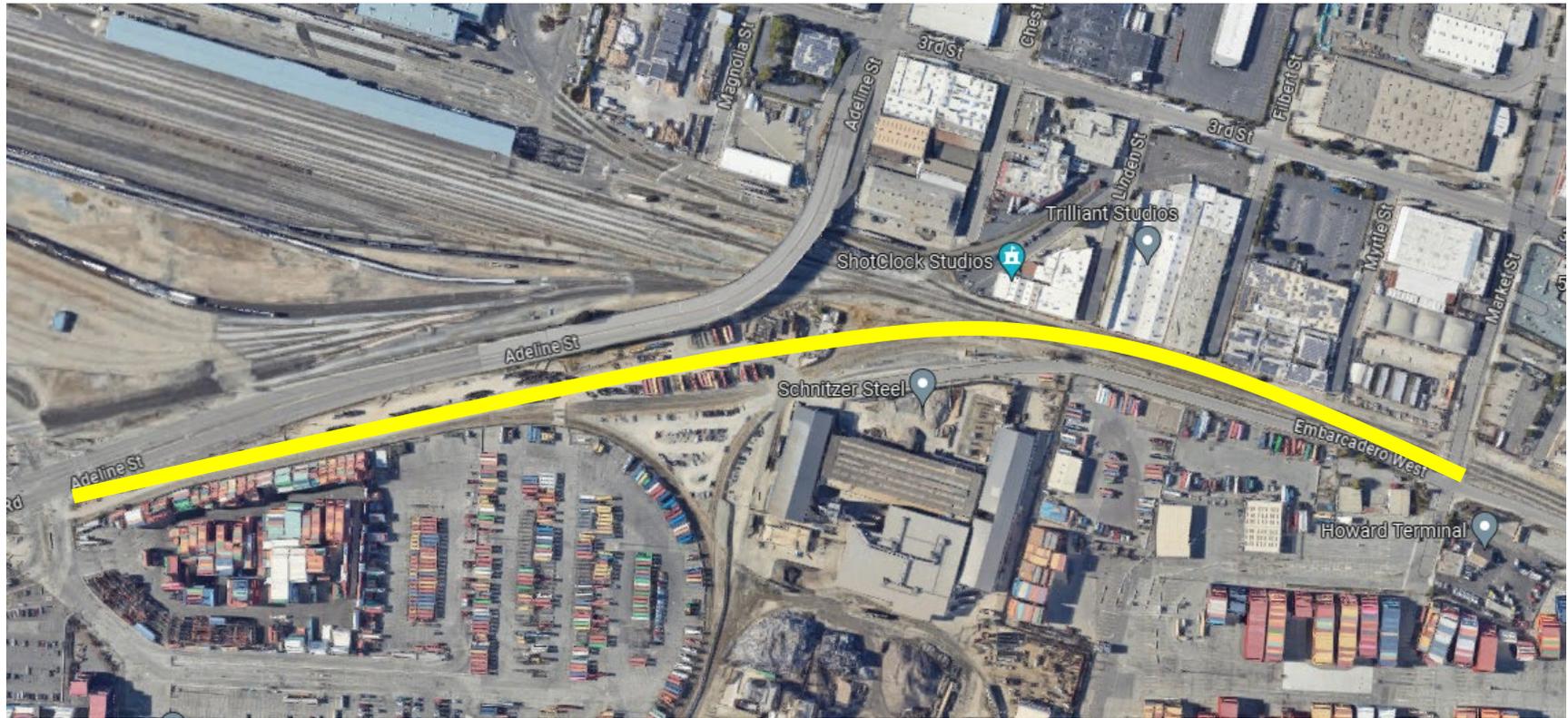


Figure 4: Subproject 7 – Development of Market Street Corridor

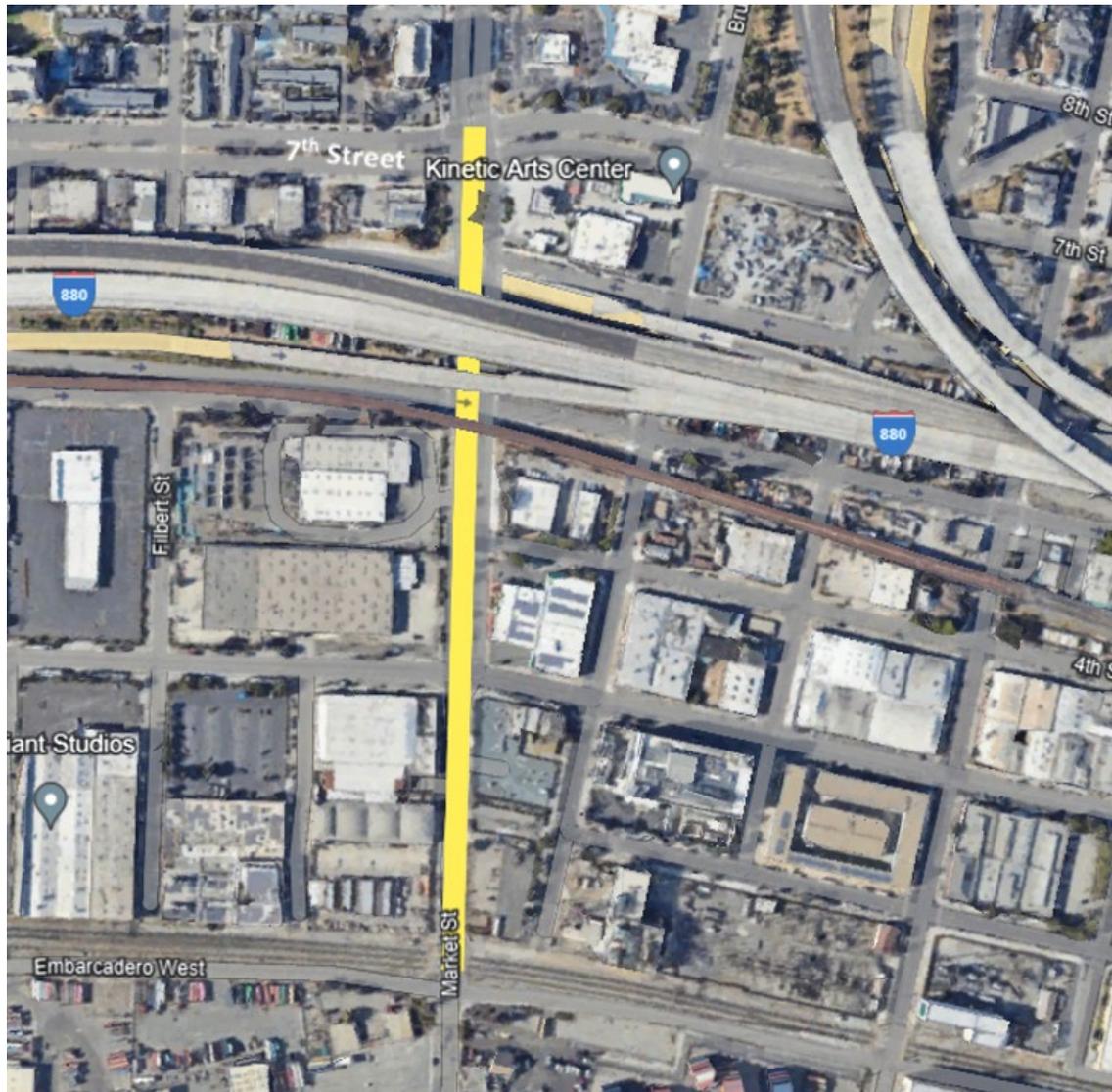


Figure 5: Subproject 9 – Construction of Martin Luther King, Jr. Way Corridor

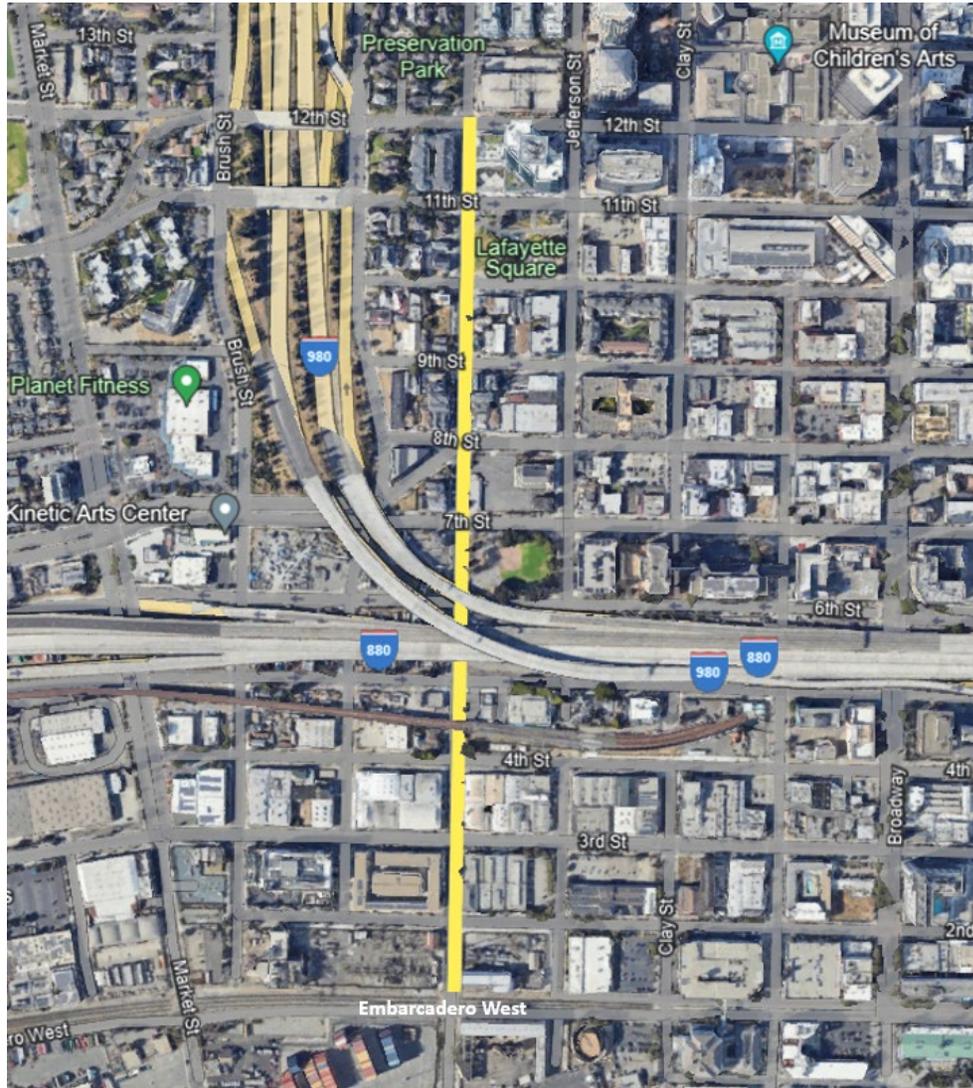


Figure 6: Subproject 11 – Improve the Broadway Transit Corridor

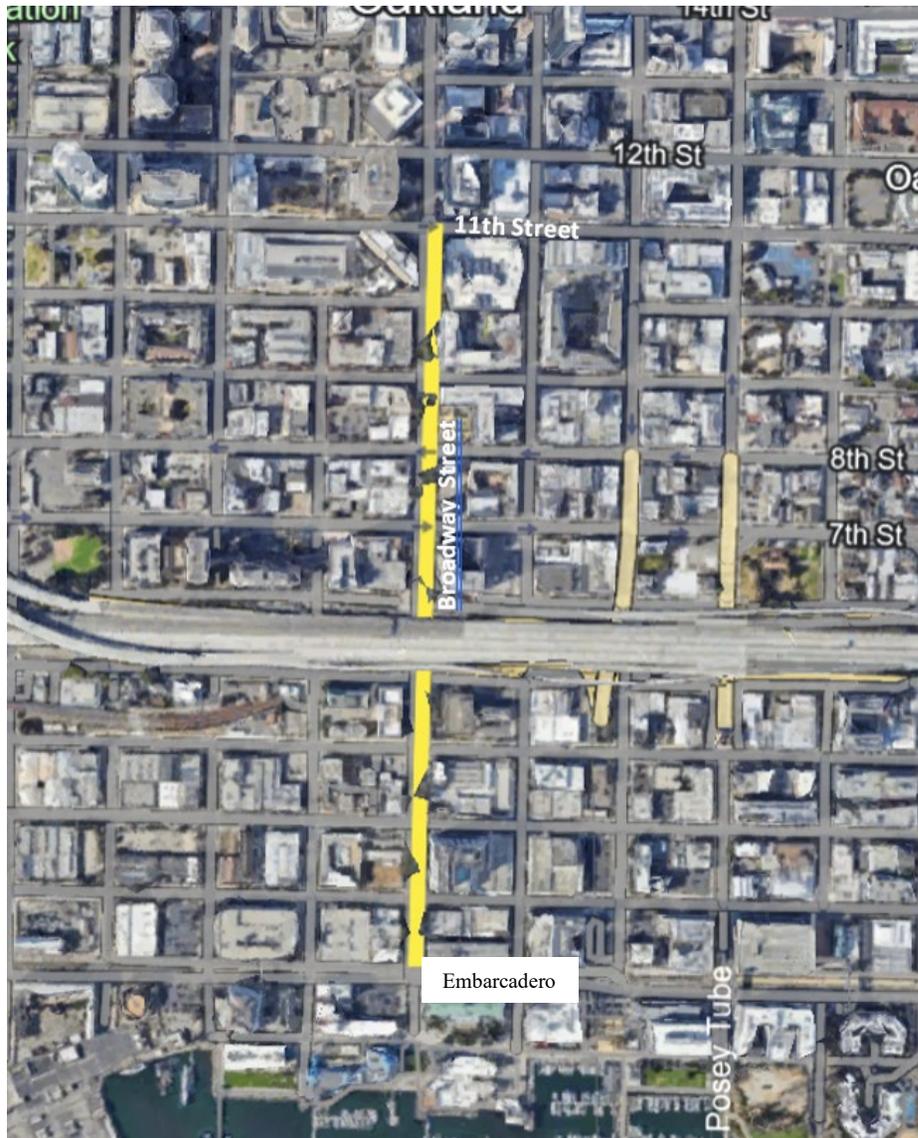
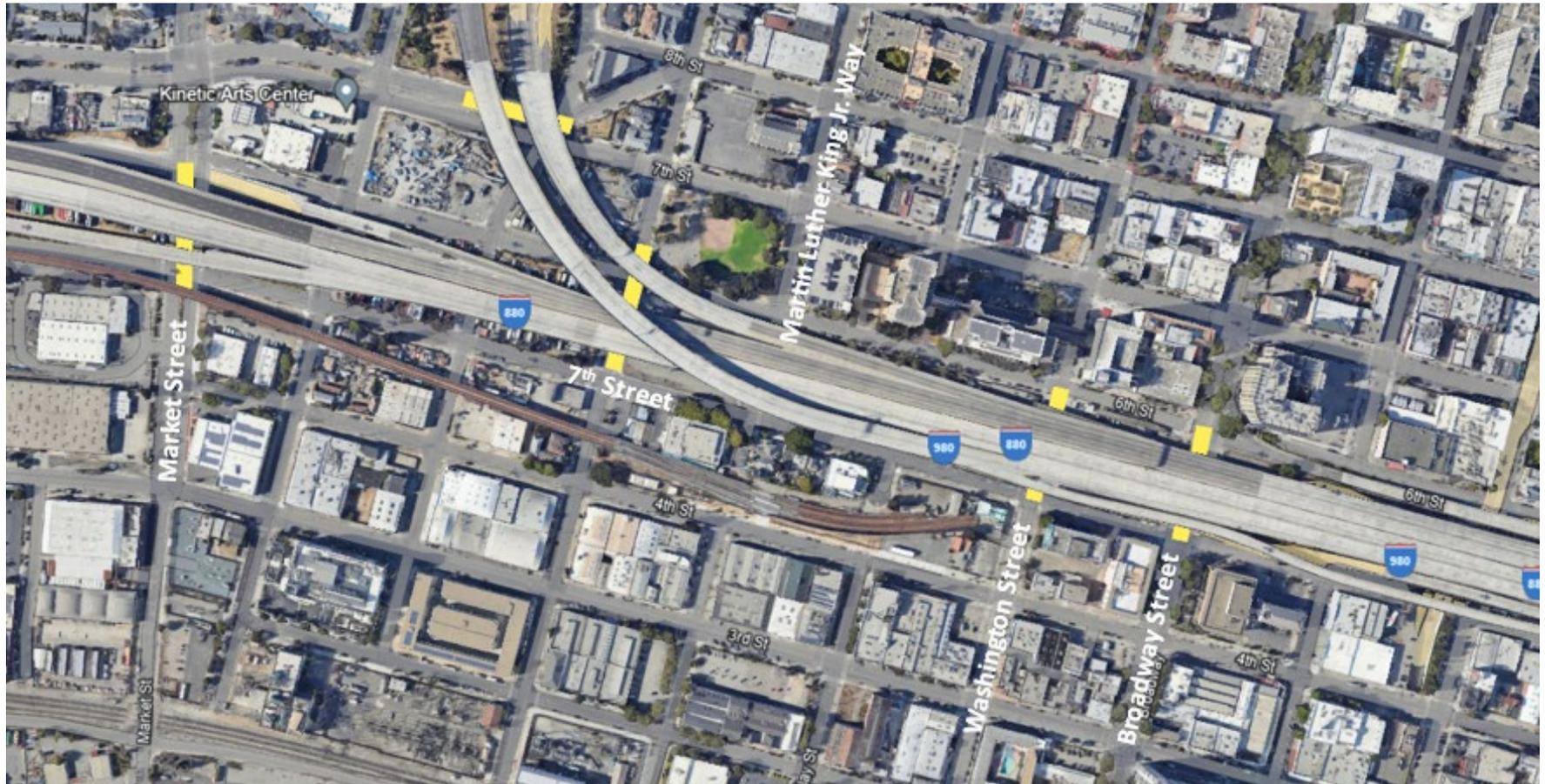


Figure 7: Subproject 12 – Construction for the 1-880 and 1-980 undercrossings at Washington Street, Markey Street, Martin Luther King Jr. Way, Broadway, and 7th Street Corridors



MSR

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 23-99

**RESOLUTION APPROVING AND AUTHORIZING THE
EXECUTIVE DIRECTOR OR HIS DESIGNEE TO
SUBMIT TO THE CALIFORNIA ENERGY COMMISSION
AN ATTESTATION OF THE VERACITY OF THE PORT
OF OAKLAND'S POWER SOURCE DISCLOSURE
REPORT AND THE POWER CONTENT LABEL FOR
CALENDAR YEAR 2022.**

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated Agenda Report Item 2.5 dated November 30, 2023, and related agenda materials ("Agenda Report"), has received the expert testimony of Port of Oakland ("Port") staff, and has provided opportunities for and taken public comment; and

WHEREAS, in acting upon this matter, the Board has exercised its independent judgment based on substantial evidence in the record and adopts and relies upon the facts, data, analysis, and findings set forth in the Agenda Report, and in related agenda materials and in testimony received;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

Section 1. The Board hereby finds and declares the following:

- a. The submittal of an attestation of the veracity of the Port's Power Source Disclosure Report (the "Report") to the California Energy Commission was reviewed in accordance with the requirements of the California Environmental Quality Act ("CEQA"), and the CEQA Guidelines. The proposed action is not subject to CEQA because the proposed action does not involve an activity that may cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment as further defined in Section 21065 of the Public Resources Code.
- b. Section 398.5 of the California Public Utilities Code requires retail suppliers in the State of California to annually report to the California Energy Commission, among other things, the sources of energy or electricity products offered to the retail suppliers' end-use customers. The Port is a retail supplier within the meaning of Section 398.5.

- c. Section 1394(a)(2), Article 5, Title 20 of the California Code of Regulations requires an attestation, signed by an authorized agent of the retail supplier under penalty of perjury, that the electricity claimed by the retail supplier as a specified purchase during the previous calendar year was sold once and only once to retail customers of that retail supplier, and that information included in the report, is true and correct.
- d. Port staff have prepared the Report detailing the sources of generation, fuel type, and quantity of generation purchased from specified facilities in 2022. Also included in the Report is a schedule showing the amount of renewable energy credits used to meet compliancy that is unbundled from the energy the generator produces and the Power Content Label showing the mix of energy generation sources in the Port's power supply. Port staff submitted the Report to the California Energy Commission in June 2023.

Section 2. The Board hereby authorizes the Executive Director or his designee to submit to the California Energy Commission an attestation of the veracity of the Port's Power Source Disclosure Report and Power Content Label.

Section 3. This resolution is not evidence of and does not create or constitute (a) a contract, or the grant of any right, entitlement, or property interest, or (b) any obligation or liability on the part of the Board or any officer or employee of the Port. This resolution does not approve and authorize the execution of any agreement(s).

Section 4. This resolution shall be effective immediately upon adoption by the Board.

At the Regular Meeting held on November 30, 2023

Passed by the following vote:

Ayes: Commissioners: Cluver, Colbruno, Dominguez Walton, Martinez, Myres, and President Leslie – 6

Excused: First Vice-President Lee – 1

Noes: 0



**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 23-100

RESOLUTION APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO: (1) WAIVE FORMAL COMPETITIVE PROCUREMENT PROCEDURES AND EXECUTE CONTRACTS TO PROCURE VEHICLES FOR USE BY AVIATION AND MARITIME DIVISIONS AT A TOTAL COST NOT TO EXCEED \$4,746,500 AND (2) DESIGNATE AS SURPLUS AND DISPOSE OF CERTAIN EXISTING VEHICLES IN ACCORDANCE WITH PORT OF OAKLAND ADMINISTRATIVE CODE SECTION 5.12.160.

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report for Agenda Item No. 6.1, dated November 30, 2023, and related agenda materials ("Agenda Report"), has received the expert testimony of Port of Oakland ("Port") staff, and has provided opportunities for and taken public comment; and

WHEREAS, that in acting upon this matter, the Board has exercised its independent judgment based on substantial evidence in the record and adopts and relies upon the facts, data, analysis, and findings set forth in the Agenda Report and in testimony received;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

Section 1. The Board finds and determines that the proposed action is not subject to the California Environmental Quality Act because the proposed action does not involve an activity that may cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment as further defined in Section 21065 of the Public Resources Code.

Section 2. The Board hereby approves and authorizes the Executive Director of the Port to:

A. Waive formal competitive procurement procedures and execute contracts to procure vehicles for use by Aviation and Maritime Divisions at a total cost not to exceed \$4,746,500, as further described in the Agenda Report, subject to approval as to form and legality by the Port Attorney.

B. Designate as surplus and dispose of certain existing vehicles in accordance with Port of Oakland Administrative Code Section 5.12.160, as further described in the Agenda Report.

C. Make any additions, modifications, or corrections necessary to execute the requested actions or to correct errors, subject to the limitations set forth herein, provided that any addition, modification, or correction does not materially differ from the terms and conditions set forth herein and in the Agenda Report and are approved as to form and legality by the Port Attorney.

Section 3. This resolution is not evidence of and does not create or constitute: (a) a contract, or the grant of any right, entitlement, or property interest; or (b) any obligation or liability on the part of the Board or any officer or employee of the Port. This resolution approves and authorizes the execution of a contract in accordance with the terms of this resolution. Unless and until a separate written contract is duly executed on behalf of the Board as authorized by this resolution, is signed as approved as to form and legality by the Port Attorney, and is delivered to other contracting party, there shall be no valid or effective contract.

Section 4. This resolution shall be effective immediately upon adoption by the Board.

At the Regular Meeting held on November 30, 2023
Passed by the following vote:

Ayes: Commissioners: Cluver, Colbruno, Dominguez Walton, Martinez, Myres, and President Leslie – 6
Excused: First Vice-President Lee – 1
Noes: 0

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

11/30/2023
Item No.: 6.2
ERR/msr



RESOLUTION NO. 23-101

RESOLUTION APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE AN AGREEMENT WITH TOM LOPES DISTRIBUTING INC., DBA WESTERN STATES OIL TO PROCURE UNLEADED GASOLINE AND RENEWABLE DIESEL FUEL FOR AN AMOUNT NOT TO EXCEED \$2,750,000 OVER A FIVE-YEAR TERM.

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report for Agenda Item No. 6.2, dated November 30, 2023, and related agenda materials ("Agenda Report"), has received the expert testimony of Port of Oakland ("Port") staff, and has provided opportunities for and taken public comment; and

WHEREAS, that in acting upon this matter, the Board has exercised its independent judgment based on substantial evidence in the record and adopts and relies upon the facts, data, analysis, and findings set forth in the Agenda Report and in testimony received;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

Section 1. The Board finds and determines that the proposed action is not subject to the California Environmental Quality Act because the proposed action does not involve an activity that may cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment as further defined in Section 21065 of the Public Resources Code.

Section 2. The Board hereby approves and authorizes the Executive Director of the Port to:

A. Execute an agreement with Tom Lopes Distributing Inc., dba Western States Oil to procure unleaded gasoline and renewable diesel fuel for an amount not to exceed \$2,750,000 over a five-year term, as further described in the Agenda Report, subject to approval as to form and legality by the Port Attorney.

B. Make any additions, modifications, or corrections necessary to execute the requested agreement or to correct errors, subject to the limitations set forth herein, provided that any addition, modification, or correction does not materially differ from the terms and conditions set forth herein and in the Agenda Report, and are approved as to form and legality by the Port Attorney.

Section 3. This resolution is not evidence of and does not create or constitute: (a) a contract, or the grant of any right, entitlement, or property interest; or (b) any obligation or liability on the part of the Board or any officer or employee of the Port. This resolution approves and authorizes the execution of a contract in accordance with the terms of this resolution. Unless and until a separate written contract is duly executed on behalf of the Board as authorized by this resolution, is signed as approved as to form and legality by the Port Attorney, and is delivered to other contracting party, there shall be no valid or effective contract.

Section 4. This resolution shall be effective immediately upon adoption by the Board.

At the Regular Meeting held on November 30, 2023

Passed by the following vote:

Ayes: Commissioners: Cluver, Colbruno, Dominguez Walton, Martinez, Myres, and President Leslie – 6

Excused: First Vice-President Lee – 1

Noes: 0



**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 23-102

RESOLUTION APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH WMH CORPORATION, INC. TO PROVIDE ENGINEERING DESIGN SERVICES FOR THE EVERPORT TERMINAL SERVICES PAVEMENT PROJECT AT BEN E. NUTTER TERMINAL FOR A THREE-YEAR TERM WITH A MAXIMUM COMPENSATION NOT TO EXCEED \$550,000.

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report for Agenda Item No. 6.3, dated November 30, 2023, and related agenda materials ("Agenda Report"), has received the expert testimony of Port of Oakland ("Port") staff, and has provided opportunities for and taken public comment; and

WHEREAS, that in acting upon this matter, the Board has exercised its independent judgment based on substantial evidence in the record and adopts and relies upon the facts, data, analysis, and findings set forth in the Agenda Report and in testimony received;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

Section 1. The Board finds and determines that:

A. The proposed action is not subject to the California Environmental Quality Act because the proposed action does not involve an activity that may cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment as further defined in Section 21065 of the Public Resources Code.

B. The proposed action is for obtaining professional, scientific, or technical services that are temporary in nature, and will not result in the loss of employment or salary by any person having permanent status in the competitive service.

Section 2. The Board hereby approves and authorizes the Executive Director of the Port to:

A. Execute a professional services agreement with WMH Corporation, Inc. to provide engineering design services for the

Everport Terminal Services Pavement Project at Ben E. Nutter Terminal for a three-year term with a maximum compensation not to exceed \$550,000, as further described in the Agenda Report, subject to approval as to form and legality by the Port Attorney.

B. Make any additions, modifications, or corrections necessary to execute the requested agreement or to correct errors, subject to the limitations set forth herein, provided that any addition, modification, or correction does not materially differ from the terms and conditions set forth herein and in the Agenda Report and are approved as to form and legality by the Port Attorney.

Section 3. This resolution is not evidence of and does not create or constitute: (a) a contract, or the grant of any right, entitlement, or property interest; or (b) any obligation or liability on the part of the Board or any officer or employee of the Port. This resolution approves and authorizes the execution of a contract in accordance with the terms of this resolution. Unless and until a separate written contract is duly executed on behalf of the Board as authorized by this resolution, is signed as approved as to form and legality by the Port Attorney, and is delivered to other contracting party, there shall be no valid or effective contract.

Section 4. This resolution shall be effective immediately upon adoption by the Board.

At the Regular Meeting held on November 30, 2023

Passed by the following vote:

Ayes: Commissioners: Cluver, Colbruno, Dominguez Walton, Martinez, Myres, and President Leslie – 6

Excused: First Vice-President Lee – 1

Noes: 0

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

11/30/2023
Item No.: 6.6
ERR/msr



RESOLUTION NO. 23-103

RESOLUTION APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO: (1) AWARD AND EXECUTE A CONTRACT WITH TEICHERT CONSTRUCTION FOR THE CONSTRUCTION OF INFRASTRUCTURE FOR ELECTRIC BUS CHARGING STATIONS - PHASE 1 AT OAKLAND INTERNATIONAL AIRPORT IN AN AMOUNT NOT TO EXCEED \$14,576,255; (2) EXECUTE CONTRACT CHANGE ORDERS IN AN AMOUNT NOT TO EXCEED \$3,644,064; AND (3) EXECUTE A SUPPLEMENTAL AGREEMENT TO THE PROFESSIONAL SERVICES AGREEMENT, DATED DECEMBER 1, 2022, WITH YEI ENGINEERS, INC. TO INCREASE THE MAXIMUM COMPENSATION IN AN AMOUNT NOT TO EXCEED \$385,000; AND FINDING THAT THE PROPOSED ACTION IS EXEMPT UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report for Agenda Item No. 6.6, dated November 30, 2023, and related agenda materials ("Agenda Report"), has received the expert testimony of Port of Oakland ("Port") staff, and has provided opportunities for and taken public comment; and

WHEREAS, that in acting upon this matter, the Board has exercised its independent judgment based on substantial evidence in the record and adopts and relies upon the facts, data, analysis, and findings set forth in the Agenda Report and in testimony received;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

Section 1. The Board finds and determines that:

A. The proposed action is categorically exempt from the California Environmental Quality Act ("CEQA") under Section 15303 of the CEQA Guidelines because the proposed action consists of: construction of new, small facilities or structures; installation of small new equipment and facilities; and/or conversion of existing small structures.

B. The proposed action is for: (1) the performance of general services by contract that are in the public interest because of economy or better performance and (2) for obtaining professional,

scientific, or technical services that are temporary in nature, and will not result in the loss of employment or salary by any person having permanent status in the competitive service.

Section 2. The Board hereby approves the following concerning the construction of Infrastructure for Electric Bus Charging Stations Phase 1 at Oakland International Airport ("Project"):

A. Award of a contract ("Contract") for the construction of the Project to Teichert Construction ("Contractor"), the lowest responsible responsive bidder, in a total amount not to exceed \$14,576,255.

B. Authorization of a maximum of \$3,644,064 (25% of the Contract) in change order authority to be used only to the extent necessary and subject to the approval of the Executive Director ("Executive Director") of the Port.

Section 3. The Board hereby authorizes the Executive Director to:

A. Finally resolve bid protests pursuant to Chapter 5.12 of the Port of Oakland Administrative Code.

B. Execute the Contract in a total amount not to exceed \$14,576,255.

C. Execute change orders to the Contract, to the extent necessary, in an amount not to exceed \$3,644,064.

D. Make such additions, modifications, or corrections as necessary to issue the Contract or to correct errors, subject to the limitations set forth herein and provided that any such addition, modification, or correction does not materially differ from the terms and conditions set forth herein and in the Agenda Report and is approved as to form and legality by the Port Attorney.

Section 4. The Board further finds that:

A. The Director of Engineering, the Chief Engineer, and the Principal Engineer are each authorized to approve the project manual and plans for each instance of work performed under the Contract in advance of construction, pursuant to Government Code Section 830.6.

B. A bond for the faithful performance of the work, and a bond to guarantee the payment of all claims for labor and materials furnished and for amounts due under the Unemployment Insurance Code, each in the amount of one hundred percent (100%) of the Contract price shall be provided by Contractor as prescribed by applicable laws and regulations and the Contract specifications.

C. The procedure prescribed by applicable laws, regulations, and the Contract specifications shall be taken for the execution of said contract.

Section 5. The Board further approves and authorizes the Executive Director to:

A. Execute a supplemental agreement to the Professional Services Agreement, dated December 1, 2022, with YEI Engineers, Inc. to increase the maximum compensation in amount not to exceed \$385,000, as further described in the Agenda Report, subject to approval as to form and legality by the Port Attorney.

B. Make any additions, modifications, or corrections necessary to execute the supplemental agreement or to correct errors, subject to the limitations set forth herein, provided that any addition, modification, or correction does not materially differ from the terms and conditions set forth herein and in the Agenda Report and are approved as to form and legality by the Port Attorney.

Section 6. This resolution is not evidence of and does not create or constitute: (a) a contract, or the grant of any right, entitlement, or property interest; or (b) any obligation or liability on the part of the Board or any officer or employee of the Port. This resolution approves and authorizes the execution of a contract in accordance with the terms of this resolution. Unless and until a separate written contract is duly executed on behalf of the Board as authorized by this resolution, is signed as approved as to form and legality by the Port Attorney, and is delivered to the other contracting party, there shall be no valid or effective contract.

Section 7. This resolution shall be effective immediately upon adoption by the Board.

At the Regular Meeting held on November 30, 2023
Passed by the following vote:

Ayes: Commissioners: Cluver, Colbruno, Dominguez Walton, Martinez, Myres, and President Leslie – 6
Excused: First Vice-President Lee – 1
Noes: 0

MSR

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 23-104

RESOLUTION APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO WAIVE FORMAL COMPETITIVE PROCUREMENT PROCEDURES AND EXECUTE: (1) A PROFESSIONAL SERVICES AGREEMENT WITH CAMBRIDGE SYSTEMATICS, INC. TO PREPARE A MICRO AND MACRO-ECONOMIC DEVELOPMENT OPPORTUNITIES ASSESSMENT AND THE OAKLAND SEAPORT PLAN FOR A TERM NOT TO EXCEED THREE YEARS AND A MAXIMUM COMPENSATION OF \$880,000 AND (2) A PROFESSIONAL SERVICES AGREEMENT WITH WSP USA, INC. TO UPDATE THE SEAPORT LAND USE STUDY FOR A TERM NOT TO EXCEED THREE YEARS AND A MAXIMUM COMPENSATION OF \$220,750.

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report for Agenda Item No. 6.7, dated November 30, 2023, and related agenda materials ("Agenda Report"), has received the expert testimony of Port of Oakland ("Port") staff, and has provided opportunities for and taken public comment; and

WHEREAS, that in acting upon this matter, the Board has exercised its independent judgment based on substantial evidence in the record and adopts and relies upon the facts, data, analysis, and findings set forth in the Agenda Report and in testimony received;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

Section 1. Based upon the information contained in the Agenda Report, and testimony received, the Board finds and determines that:

A. The proposed action is not subject to the California Environmental Quality Act ("CEQA") because the proposed action does not involve an activity that may cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment as further defined in Section 21065 of the Public Resources Code.

B. The proposed action is for obtaining professional, scientific, or technical services that are temporary in nature and will not result in the loss of employment or salary by any person having permanent status in the competitive service.

Section 2. The Board hereby approves and authorizes the Executive Director of the Port to:

A. Waive formal competitive procurement procedures and execute: (1) a professional services agreement with Cambridge Systematics, Inc. to prepare a micro and macro-economic development opportunities assessment and the Oakland Seaport Plan for a term not to exceed three years and a maximum compensation of \$880,000 and (2) a professional services agreement with WSP USA, INC. to update the seaport land use study for a term not to exceed three years and a maximum compensation of \$220,750, as further described in the Agenda Report, subject to approval as to form and legality by the Port Attorney.

B. Make any additions, modifications, or corrections necessary to execute the requested agreements or to correct errors, subject to the limitations set forth herein, provided that any addition, modification, or correction does not materially differ from the terms and conditions set forth herein and in the Agenda Report, and are approved as to form and legality by the Port Attorney.

Section 3. This resolution is not evidence of and does not create or constitute: (a) a contract, or the grant of any right, entitlement, or property interest; or (b) any obligation or liability on the part of the Board or any officer or employee of the Port. This resolution approves and authorizes the execution of a contract in accordance with the terms of this resolution. Unless and until a separate written contract is duly executed on behalf of the Board as authorized by this resolution, is signed as approved as to form and legality by the Port Attorney, and is delivered to other contracting party, there shall be no valid or effective contract.

Section 4. This resolution shall be effective immediately upon adoption by the Board.

At the Regular Meeting held on November 30, 2023
Passed by the following vote:

Ayes: Commissioners: Cluver, Colbruno, Dominguez Walton, Martinez, Myres, and President Leslie – 6
Excused: First Vice-President Lee – 1
Noes: 0