



AGENDA REPORT

<u>PROPOSED ACTION:</u>	
Ordinance: Approve and Authorize the Executive Director to Execute a Quitclaim Deed for a Grant of Access Easement That Grants the Port Access to Port Parcels 15A and I-2 Along and Adjacent to Former Wake Avenue (Quitclaim Deed (Wake Avenue)), on the Former Oakland Army Base (Maritime)	
Submitted By: Bryan Brandes, Director of Maritime Danny Wan, Executive Director	
Parties Involved: City of Oakland (Betsy Lake, Assistant City Administrator)	Amount: \$0
EXECUTIVE SUMMARY: In 2007, the Port of Oakland (Port) and City of Oakland (City) executed a Grant of Access Easement to provide the Port with access to two Port-owned land parcels on the former Oakland Army Base (OAB), north of Grand Avenue. The City has requested the Port relinquish the Access Easement unconditionally so that it does not encumber real property agreements the City wishes to execute on its former OAB lands.	

BACKGROUND & ANALYSIS

BACKGROUND

Port Parcels & Grant of Access Easement in 2007

As part of the closure and transfer of the former Oakland Army Base (OAB) to the City of Oakland (City) and the Port of Oakland (Port), the Port obtained land north of Grand Avenue, including two neighboring parcels known as Parcels I-2 and 15A (Port Parcels) located within the Port’s Maritime Area (Seaport).

Also as part of the transfer of the former OAB, the City obtained Wake Avenue, a former U.S. Army street near the Port Parcels. To ensure the Port’s access to the Port Parcels, in 2007, the City granted the Port an access right, memorialized in a Grant of Access Easement, that granted the Port access the Port Parcels via Wake Avenue and a small piece of adjoining land (together, the Wake Avenue Easement). At the time of execution, and until recently, the Wake Avenue Easement provided a direct roadway to each of the Port Parcels (independently) suitable for heavy duty industrial traffic consistent with Seaport operations. Refer to Exhibit A.

Recent City Development Activities & Current Access to Port Parcels

In the last few years, the City and Port have performed various redevelopment of their respective OAB lands. In particular, the City has made improvements (e.g., site grading; roadway removal and realignment – including Wake Avenue; and beds for future rail tracks) in and around the Wake Avenue Easement and Port Parcels. The City now calls this area the “North Gateway.” These improvements functionally have eliminated the access set forth in the Wake Avenue Easement.

As result, today, the Port accesses the Port Parcels through a new cul-de-sac constructed by the City on Port property, at the southern portion of Parcel 15A (Exhibit A). More specifically, the Port uses the cul-de-sac to enter Parcel 15A, which connects to Parcel I-2. Given site topography and trackage improvements, it is (a) not practicable to access Parcel I-2 directly from the cul-de-sac, and (b) accessing Parcel I-2 via Parcel 15A is possible but constrained by grade (elevation) differences associated with the rail tracks. The cul-de-sac and a short portion of Admiral Toney Way is a private Port roadway; however, the balance of Admiral Toney Way is on City property and is a City street.

Relationship of North Gateway to Port Parcels & Quitclaim

The City has been working to relocate two recycling companies from the West Oakland neighborhood to the North Gateway. The Wake Avenue Easement runs through portions of the North Gateway; the City has asked the Port to relinquish or “quitclaim” its Wake Avenue Easement. The City intends that the Port and City will share the cul-de-sac, since it will be an access point for both recycling companies and any other North Gateway tenant in the future.

Additionally, the City has requested that the Port sell the portion of Parcel 15A not encumbered by the cul-de-sac to provide additional land for the recyclers in the North Gateway. While not the subject of this Report, this request is directly relevant to the discussion of the Port’s access to the Port Parcels and provided here for context, as further explained below under Analysis.

Port’s Use of Port Parcels

Today, Parcel 15A is 2.5 acres of graded and unpaved land; it is leased to a Port tenant and generates revenue of about \$8,600 per month. Parcel I-2 is 4.5 acres, comprising ballast for future rail track that would facilitate the handling of unit trains, some rail track that connects to the existing Outer Harbor Intermodal Terminal, and otherwise graded but unpaved land. The land adjacent to the tracks within Parcel I-2 is suitable for long-term rail maintenance support and small-scale ancillary maritime operations if adequate access were provided. Refer to Exhibit A.

ANALYSIS

Provision of “Substantially Similar” Access

The Wake Avenue Easement states that the “Easement shall terminate in the event a publicly-dedicated or separate roadway is constructed or developed which provides Grantee with access to Grantee’s Property substantially similar to the access granted in this

Easement.” As discussed above, the Port’s current access to the Port Parcels is quite different from the access granted by the Wake Avenue Easement – notably, there is no more roadway that provides direct and independent access to each of the Port Parcels for heavy duty traffic typical of Seaport Operations. To obtain full access to each of the Port Parcels, the Port likely will have to build a road on Parcel 15A, which will reduce the useable acreage of this Parcel.

Conclusions and Recommendation

Nevertheless, the City has asked the Port to relinquish the Wake Avenue Easement. As part of its consideration of this request, Port Staff requested the City provide an alternative to the Wake Avenue Easement (and provided the City with options to consider) as a condition of the quitclaim. Ultimately, the City was unable to provide or agree to the Port’s alternative access conditions and requested the Port’s unconditional quitclaim of the Wake Avenue Easement. Port and City staff have discussed and agreed that, should some or all of Parcel 15A be sold or leased to the City, the City will work with the Port to ensure suitable access (i.e., a road or road-like pathway) is made available for the Port to access Parcel I-2 for maritime-related purposes. However, the details of this agreement have not been defined and the agreement would not be a condition of the quitclaim.

Because (a) relinquishment of the Wake Avenue Easement does not eliminate or further restrict the Port’s access to the Port Parcels compared to current physical conditions; and (b) City staff has agreed to work with Port Staff to ensure suitable access to the Port Parcels in the event of a sale/lease of Parcel 15A, Staff recommends that the Board relinquish the Wake Avenue Easement unconditionally by authorizing the Executive Director to execute the proposed quitclaim.

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:
15301 (Existing Facilities)
- Exempt from CEQA because it is not a “Project” under CEQA Guidelines Section 15061(b)(3).
- Other:

Reason: CEQA Guidelines exempt the operation, leasing, licensing, and minor alteration of existing structures and facilities, involving negligible or no expansion of existing or former use.

BUDGET

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

Analysis: Future budgetary impacts may result as discussed herein, but the proposed action itself has no direct financial/budgetary impact.

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 (Not Aviation or Maritime CIP Project) – proposed action is not covered work on Port’s Capital Improvement Program in Aviation or Maritime areas above the threshold cost.
 Additional Notes:

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: Not a development.

GENERAL PLAN (City Charter § 727):

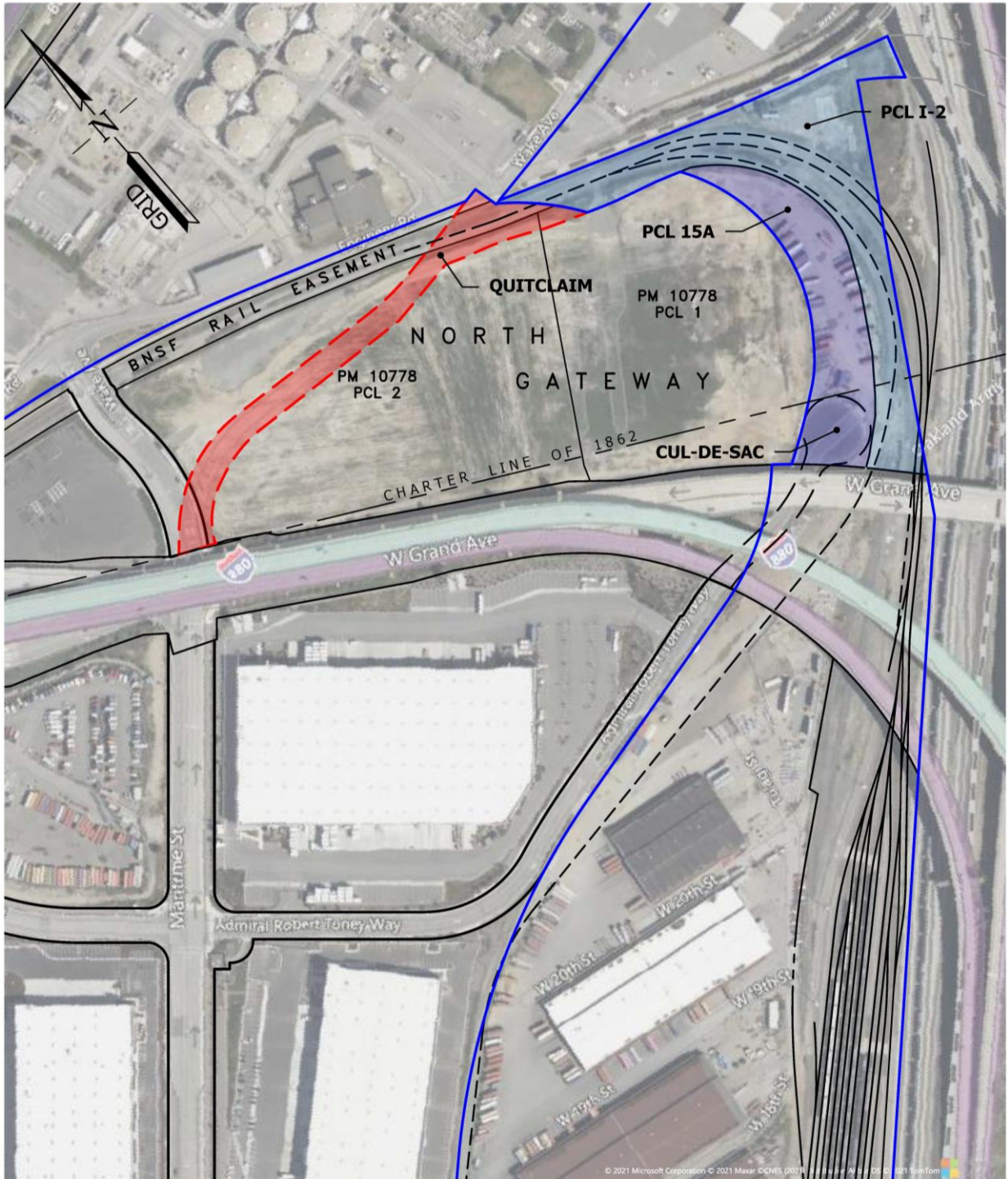
Conformity Determination:
Maritime/Aviation – proposed action conforms to policies for transportation designation of the General Plan.

STRATEGIC PLAN. The proposed action would help the Port achieve the following goal(s) and objective(s) in the Port’s Strategic Business Plan:

- | | |
|---|--|
| <input type="checkbox"/> Grow Net Revenues | <input type="checkbox"/> Modernize and Maintain Infrastructure |
| <input type="checkbox"/> Improve Customer Service | <input type="checkbox"/> Pursue Employee Excellence |
| <input type="checkbox"/> Strengthen Safety and Security | <input checked="" type="checkbox"/> Serve Our Community |
| <input type="checkbox"/> Care for Our Environment | |

Exhibit A

Quitclaim Access Easement to Port Parcels 1-2 and 15A



- Port Area Jurisdiction
- Existing Railroad Tracks
- Future Railroad Tracks

