

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

12/2/2021
Item No. 6.1
MCR/pcm

MA

ORDINANCE APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A QUITCLAIM DEED FOR A GRANT OF ACCESS EASEMENT THAT GRANTS THE PORT OF OAKLAND ("PORT") ACCESS TO PORT PARCELS 15A AND I-2 ALONG AND ADJACENT TO FORMER WAKE AVENUE ON THE FORMER OAKLAND ARMY BASE.

WHEREAS, the Board of Port Commissioners ("Board") of the City of Oakland has reviewed and evaluated the Agenda Report Item No. 6.1 dated, December 2, 2021, ("Agenda Report") and related agenda materials, has received the expert testimony of Port of Oakland ("Port") staff, and has provided opportunities for and taken public comment; and

WHEREAS, as part of the closure and transfer of the former Oakland Army Base ("OAB") to the City of Oakland, acting by and through the City Council ("City") and the 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; and

WHEREAS, 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 to the Port Parcels via Wake Avenue and a small piece of adjoining land (together, the "Wake Avenue Easement"); and

WHEREAS, in the last few years, the City has made improvements, including roadway removal and realignment in and around the Wake Avenue Easement and Port Parcels. The City refers to this area as the "North Gateway". The City improvements have functionally eliminated the access set forth in the Wake Avenue Easement; and

WHEREAS, 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 the Wake Avenue Easement; and

WHEREAS, the Port has tentatively agreed to relinquish the Wake Avenue Easement based on several factors, including: (a) the ability of the Port to access the Port Parcels through a cul-de-sac constructed by the City on Port property; (b) Port staff's determination that 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 (c) City staff's agreement to work with Port staff to ensure suitable access to the Port Parcels in the event of a sale/lease of Parcel 15A to the City; 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 related agenda materials and in testimony received; now therefore

BE IT ORDAINED by the Board of Port Commissioners of the City of Oakland as follows:

SECTION 1. The proposed action is categorically exempt from the California Environmental Quality Act ("CEQA") under Section 15301 of the CEQA Guidelines because the proposed action consists of activities that involve negligible or no expansion of an existing use.

SECTION 2. The Board hereby authorizes the Executive Director of the Port ("Executive Director") to:

A. Execute on behalf of the Board a Quitclaim Deed ("Quitclaim Deed") in favor of the City relinquishing the Wake Avenue Easement as further set forth in the Agenda Report.

B. Make such additions, modifications, or corrections as necessary to implement the Quitclaim Deed 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 are approved as to form and legality by the Port Attorney.

SECTION 3. This ordinance 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. Unless and until a separate written agreement is duly executed on behalf of the Board as authorized by this ordinance, 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 agreement.

SECTION 4. This ordinance shall take effect on the date of its final adoption; provided, however, that if a petition protesting the adoption of this ordinance is timely and duly submitted to the elections official of the City of Oakland in the manner required under California Elections Code § 9237, the effective date of this ordinance shall be suspended, and all actions authorized by this ordinance shall be null and void.

President.

Attest: _____
Secretary.

Approved as to form and legality:

Port Attorney