

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

1/26/2023
Item No.: 6.2 (B)
CLF/pcm

McP

RESOLUTION APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO ENTER INTO AN AMENDMENT TO A MEMORANDUM OF UNDERSTANDING WITH CITY OF OAKLAND AND ALAMEDA COUNTY TRANSPORTATION COMMISSION THAT OUTLINES ROLES AND RESPONSIBILITIES DURING CONSTRUCTION OF THE 7TH STREET GRADE SEPARATION EAST PROJECT AND FINDING THAT THE PROPOSED ACTION COMPLIES WITH THE CALIFORNIA ENVIRONMENTAL QUALITY ACT AS IT WAS ANALYZED IN THE 2012 ADDENDUM TO THE 2002 OAKLAND ARMY BASE AREA REDEVELOPMENT PLAN ENVIRONMENTAL IMPACT REPORT.

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report for Agenda Item No. 6.2, dated January 26, 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, the Port and the Alameda County Transportation Commission ("Alameda CTC") have been working together to develop and implement a suite of freight transportation projects known as the GoPort Program ("GoPort Program"). The GoPort Program consists of three distinct projects: The Freight Intelligent Transportation System ("FITS") project; the 7th Street Grade Separation Project West; and the 7th Street Grade Separation East Project ("7th Street East Project"); and

WHEREAS, the Port, Alameda CTC, and the City of Oakland ("City") entered into that certain Memorandum of Understanding on January 24, 2020, to outline certain obligations and actions of the parties for the 7th Street East Project ("MOU"); and

WHEREAS, the MOU requires an amendment to further clarify roles and responsibilities between the three parties during the construction period for the 7th Street East Project; 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 RESOLVED AS FOLLOWS:

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

A. The proposed action was reviewed in accordance with the requirements of the California Environmental Quality Act ("CEQA"). The 2002 Oakland Army Base Area ("OAB") Redevelopment Plan Environmental Impact Report ("2002 Redevelopment EIR") evaluated the potential impacts of redevelopment of the 1,800-acre redevelopment area, which included the Port locations for the FITS Project components. The EIR was certified by the lead agency, the City, in June 2002. On September 17, 2002, the Board, acting on behalf of the Port as a responsible agency under CEQA, adopted findings and the mitigation program in the City's EIR (Resolution No. 02317). In 2012, the City, in consultation with the Port, issued an Initial Study/Addendum to the Redevelopment EIR to evaluate proposed changes to the redevelopment plan. The Board approved the revised redevelopment plan and adopted the revised mitigation program on June 21, 2012 (Resolution No. 12-76). The 7th Street East Project was included in the 2002 Redevelopment EIR and the 2012 Addendum. No supplemental review is required under Section 15162 of the CEQA Guidelines.

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

A. Enter into an amendment to the MOU, 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 amendment to the MOU 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.