

## AGENDA REPORT

**Ordinance:** Approve a *Grant of Easement* with Pacific Gas and Electric Company for a 66-Year Term, Commencing Approximately January 1, 2019, for approximately 1,565 linear feet in length, by approximately 3 feet in width, or 4,695 square feet of Real Property along Earhart Road, between Airport Drive and East of the Swan Way intersection for No Monetary Consideration; and Accept All Right, Title and Interest in Relinquished Pipeline Infrastructure from Pacific Gas and Electric Company. **(Aviation)**

**MEETING DATE:** 03/08/2018

**AMOUNT:** No Monetary Consideration

**PARTIES INVOLVED:** **Pacific Gas and Electric Company**  
San Francisco, California  
Geisha Williams, President and CEO

**SUBMITTED BY:** Bryant L. Francis C.M., Director of Aviation

**APPROVED BY:** J. Christopher Lytle, Executive Director

**ACTION TYPE:** Ordinance

### **EXECUTIVE SUMMARY**

This action would delegate authority to the Executive Director to (i) execute a *Grant of Easement* with Pacific Gas and Electric Company (PG&E) for a 66-year term, commencing approximately January 1, 2019, for real property of approximately 1,565 linear feet in length by approximately 3 feet in width, or 4,695 square feet along Earhart Road, between Airport Drive and east of the Swan Way intersection so that PG&E can access its natural gas pipeline, and (ii) accept all right, title and interest in abandoned pipeline infrastructure from PG&E.

### **BACKGROUND**

Beginning in 1948 and continuing into the early 1950s, Pacific Gas & Electric Company ("PG&E") constructed a subsurface gas pipeline within the right-of-way of Earhart Road on the North Field at Oakland International Airport. Despite this decades-old encumbrance, neither the Port of Oakland nor PG&E can find an easement, franchise, license or other agreement documenting the existence of the gas pipeline.

PG&E is aggressively pursuing a program of replacing and updating its gas transmission lines and related equipment that have gone beyond their useful life cycles, including the pipeline beneath Earhart Road. PG&E submitted plans and specification to:

- Abandon in place the existing approximately 1,565 linear feet of high-pressure, galvanized steel gas transmission line (between 3 inches to 3.5 inches in diameter) on the segment beneath Earhart Road between Airport Drive and Swan Way, and

- Install a high-pressure, plastic gas transmission line (4-inch diameter) of the same approximate length.

On November 30, 2017, the Board adopted Resolution No. 17-123 approving the issuance of Port Permit No. 5163; the approved Port Permit enables PG&E to complete this project. Concurrently, the Port and PG&E entered into a *Temporary Rental Agreement*<sup>1</sup> allowing PG&E to commence construction.

Two (2) essential conditions of the Board's approval of Port Permit No. 5163 are:

1. Port and PG&E to negotiate and execute a *Grant of Easement* enabling PG&E to have future access rights (via utility easement) to its newly installed infrastructure for repairs, replacements and upgrades to address customer service needs and public safety; and,
2. The existing high-pressure, galvanized steel gas transmission line being replaced is to be abandoned in place, be de-commissioned, and transferred to the Port by PG&E with all its right, title and interest in the existing gas transmission line.

Documenting utility easements is consistent with similar installations by public utilities when collaborating with public agencies. The proposed 66-year term of the *Grant of Easement* will commence approximately January 1, 2019, and expire on December 31, 2085.

## **ANALYSIS**

The requested action approves the terms and conditions as specified below, and authorizes the Executive Director to execute the proposed *Grant of Easement*.



***Illustration of PG&E gas line installation span along Earhart Road***

**Premises:** Approximately 1,565 linear feet in length, by approximately 3 feet in width, or 4,695 square feet of real property along and beneath Earhart Road, between Airport Drive and east of the Swan Way intersection.

<sup>1</sup> Pursuant to the Port's Bylaws, the Board has delegated to the Executive Director the authority to enter into Temporary Rental Agreements in specific, limited circumstances, including "installing utility lines or equipment by a third party authorized to install such lines or equipment." This Agenda Report does not request the Board to take any action on the referenced *Temporary Rental Agreement* with PG&E.

- Use:** Ingress and egress rights for PG&E to address future needs for the maintenance, repair and replacement of the installed high pressure gas transmission line approved through Port Permit No. 5163.
- Term:** Sixty-six (66) years commencing approximately January 1, 2019 and expiring on December 31, 2085. 66 years is the maximum term allowed by City Charter.
- Payment:** No monetary consideration. All costs for capping and de-commissioning the existing gas transmission line being abandoned in place, will be borne by PG&E. Pavement repair and restoration costs will be at PG&E's sole expense.

As a part of the *Grant of Easement*, PG&E agrees to abandon in place, de-commission, relinquish, and transfer all right, title and interest – to the Port – the existing high-pressure, galvanized steel, gas transmission line. Upon execution of the *Grant of Easement*, the Port intends to take possession, then potentially adapt and re-utilize the de-commissioned gas transmission line to host fiber-optic infrastructure in support of future security technology projects, and data gathering objectives envisioned by Port staff, and supporting high-speed data access needs within the North Field community.

### **BUDGET & STAFFING**

The requested action has no budget or staffing impact.

### **MARITIME AVIATION PROJECT LABOR AGREEMENT (MAPLA)**

The requested action is not within the scope of the Port of Oakland Maritime and Aviation Project Labor Agreement (MAPLA) and the provisions of MAPLA do not apply.

### **STRATEGIC PLAN**

The action described herein would help the Port achieve the following business goals and objectives in the Port's Strategic Plan:

(<http://www.portofoakland.com/pdf/about/strategicPlan2011-2015.pdf>)

#### **Goal A: Create Sustainable Economic Growth for the Port and Beyond**

- Goal A: Objective 1: Maximize use of existing assets.

### **LIVING WAGE**

Living Wage Requirements, in accordance with the Port's Rules and Regulations for the Implementation and Enforcement of the Port of Oakland Living Wage Requirements (the "Living Wage Regulations"), do not apply because the requested action is not an agreement, contract, lease, or request to provide financial assistance within the meaning of Living Wage regulations.

### **ENVIRONMENTAL**

California Environmental Quality Act (CEQA) Guidelines Section 15061(b) (3) states that CEQA applies only to activities that have a potential for causing a significant effect on the

environment. The requested action will not result in a physical change in the environment, and therefore is exempt from CEQA and no further environmental review is required.

### **GENERAL PLAN**

This action does not change the use of any existing facility, alter an existing facility, or create a new facility; therefore, a General Plan conformity determination pursuant to Section 727 of the City of Oakland Charter is not required.

### **OWNER-CONTROLLED INSURANCE PROGRAM (OCIP)**

This action is not subject to the Port's Owner Controlled Insurance Program (OCIP) as it is not a capital improvement construction project.

### **OPTIONS**

1. Approve the terms and conditions of the proposed *Grant of Easement* with Pacific Gas and Electric Company (PG&E):
  - For a term of 66 years for no monetary consideration;
  - Accept from PG&E the existing to-be-decommissioned pipeline anticipated to be used for a future Port technology project; and,
  - Authorize the Executive Director to execute the Grant of Easement

This is the staff recommendation.

2. Do not approve the terms and conditions of the proposed *Grant of Easement* with PG&E:
  - PG&E's gas transmission line replacement work will continue pursuant to Port Permit No. 5163 and the *Temporary Rental Agreement*;
  - The existing gas pipeline will remain undocumented;
  - The new/replacement pipeline will not be documented; and,
  - The Port will not have access to the existing to-be-decommissioned pipeline anticipated to be used for a future Port technology project.
3. Do not approve the terms and conditions of the *Grant of Easement* with PG&E, but authorize different terms and conditions.

### **RECOMMENDATION**

It is recommended that the Board adopt an Ordinance to:

- Approve the proposed *Grant of Easement* with Pacific Gas & Electric Company (PG&E) for a term of 66 years for no monetary consideration;
- Accept from PG&E the existing to-be-decommissioned pipeline; and,
- Authorize the Executive Director to execute the *Grant of Easement* and any other documents necessary to complete the proposed transaction.

Subject to the Port Attorney's review and approval as to form and legality.