

AGENDA REPORT

Ordinance: Approve a Grant of Easement to Pacific Gas and Electric Company for Access, Repair, and Maintenance of Facilities Located in a Joint Trench Along Maritime Street from 14th Street to Approximately 18th Street, To Serve the Portion of the Former Oakland Army Base Property Owned by the City of Oakland, for No Monetary Consideration. **(Maritime)**

MEETING DATE: 10/25/2018

AMOUNT: None

PARTIES INVOLVED: Pacific Gas & Electric, San Francisco, CA
Stephen Hughes, Land Department

SUBMITTED BY: John C. Driscoll, Director of Maritime

APPROVED BY: J. Christopher Lytle, Executive Director

ACTION TYPE: Ordinance

EXECUTIVE SUMMARY

As part of the development of the former Oakland Army Base ("OAB"), the Port of Oakland and City of Oakland collaborated to construct a trench along the eastern boundary of Maritime Street, for various utilities to serve both the Port and City of Oakland portions of the OAB. The proposed action would authorize the Executive Director to execute a Grant of Easement Agreement ("Easement") with Pacific Gas & Electric Company ("PG&E") for access to certain segments of the subject utility trench that contains electrical infrastructure that PG&E will use to serve only the City owned portions of the former Oakland Army Base.

BACKGROUND

The United States of America acting by and through the Department of the Army ("Army") transferred the former OAB property to the Oakland Base Reuse Authority ("OBRA") through a No-Cost Economic Development Conveyance (the "EDC Quitclaim Deed") in 2003. Through a series of transfers involving OBRA, the State of California, the Redevelopment Agency of the City of Oakland, the City of Oakland (the "City"), and the Port of Oakland (the "Port"), the City and Port now each owns a portion of the former OAB – "City Lands" and "Port Lands," respectively. The Port and the City entered into an Amended and Restated Cost Sharing Agreement ("CSA"), dated June 19, 2012 to collaboratively develop certain shared and exclusive utility and infrastructure improvements on both the City's and the Port's portions of OAB to advance the redevelopment of the larger OAB development. One of the utility

infrastructure improvements developed pursuant to the CSA was a trench along the eastern boundary of Maritime Street with conduits for various utilities, including, without limitation, electric circuits for the Treasure Island Development Authority (“TIDA”), PG&E, and the Port.

Location Map



ANALYSIS

Construction of the Joint Trench is complete, and PG&E conditioned its willingness to commence transmitting electric power to the City Lands upon PG&E obtaining long-term access to the Joint Trench to maintain and repair the PG&E facilities located therein. Thus, it is necessary to grant an easement to PG&E providing access for maintenance and repair activities

of their facilities to allow development of the City Lands consistent with the terms of the CSA. The recommended Grant of Easement Agreement would meet the requirements of PG&E to provide long-term electric service to City Lands.

The terms of the Easement include:

- Premises:** The survey and legal description of the Premises has not yet been finalized. It is currently estimated that the Grant of Easement Agreement would be for real property measuring approximately 1,500 linear feet, by approximately 15 feet in width (or approximately 22,500 square feet) along the east side of Maritime Street between 14th Street and 18th Street, and along and beneath 14th Street east of Maritime Street. However, given the schedule of Board meetings and the City's relatively urgent need for PG&E service, staff requests the Board's approval to finalize and execute a Grant of Easement Agreement generally consistent with the location shown on the Location Map above, staff's current understanding of the easement location as described here, and any reasonable access points/areas in the vicinity of the Joint Trench that PG&E may need for the purpose of providing service the City Lands, as described herein.
- Use:** Access rights for PG&E to address future needs for the maintenance, repair and replacement of the installed facilities serving City Lands.
- Term:** The easement would remain in place in to perpetuity unless terminated due to abandonment, non-use, or violation of tidelands trust as outlined in the Easement.
- Payment:** No monetary consideration. Section 6.07(a) of the CSA states "to the extent that the construction of the Backbone Infrastructure requires rights of way or easements (construction, utility, and access) over a portion of the Parties' property, the owner of such property shall provide the same upon written request and without requiring consideration therefore." The facilities housed within the Joint Trench to serve the City Lands are considered "Backbone Infrastructure" pursuant to the CSA.

The Easement does not allow PG&E to utilize the easement to expand or enlarge existing facilities, add additional conduits, or install lateral connections without first obtaining the Port's prior written permission, which the Port may grant, deny, or condition in its sole and absolute discretion.

BUDGET & STAFFING

The proposed action does not have any budget or staffing impact.

MARITIME AVIATION PROJECT LABOR AGREEMENT (MAPLA)

The matters included in this Agenda Report do not fall within the scope of the Port of Oakland Maritime and Aviation Project Labor Agreement (MAPLA) and the provisions of the MAPLA do not apply.

STRATEGIC PLAN

The action described herein would help the Port achieve the following goals and objectives in the Port's Strategic Business Plan (2018-2022).

<https://www.portofoakland.com/wp-content/uploads/Port-of-Oakland-Strategic-Plan.pdf>

- Goal: Improve Customer Service
- Goal: Modernize and Maintain Infrastructure

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 the Living Wage Regulations.

SUSTAINABILITY

Port staff have reviewed the Port's 2000 Sustainability Policy and did not complete the Sustainability Opportunities Assessment Form. There are no sustainability opportunities related to this proposed action because it does not involve a development project, purchasing of equipment, or operations that presents sustainability opportunities.

ENVIRONMENTAL

CEQA Determination: This action was reviewed in accordance with the requirements of the California Environmental Quality Act ("CEQA"). CEQA Guidelines Section 15378(a) states that "Project" means the whole of an action that has a potential for resulting in either direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The general rule in Section 15061(b)(3) of the Guidelines additionally states that CEQA applies only to activities that have a potential for causing a significant effect on the environment. Because it can be seen with certainty that there is no possibility that executing a Grant of Easement Agreement with PG&E may have a significant effect on the environment, the action is not a "Project" under CEQA, and is not subject to CEQA under the General Rule Exclusion. No further review of this action under CEQA is required.

GENERAL PLAN

This action does not change the use of any existing facility, make alterations to 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

Staff has identified the following options for the Board's consideration:

1. Approve the terms and conditions of the proposed Grant of Easement Agreement with PG&E. This is the recommended action.
2. Do not approve the terms and conditions of the proposed Grant of Easement Agreement with PG&E:
 - PG&E would not provide electric service to City Lands;
 - Without the Easement the Port would likely violate terms of the CSA, which was intended to advance the redevelopment of the OAB.
3. Approve the Grant of Easement Agreement with PG&E, with different terms and conditions, as may be directed by the Board.

RECOMMENDATION

It is recommended that the Board adopt an Ordinance to:

- Approve the proposed Grant of Easement Agreement, as described herein, with Pacific Gas & Electric Company (PG&E) for no monetary consideration; and
- Authorize the Executive Director to execute the Grant of Easement Agreement and any other documents necessary to complete the proposed transaction, subject to the Port Attorney's review and approval as to form and legality.