

AGENDA REPORT

Ordinance: Authorize the Executive Director to Enter into a No-Cost Temporary License Agreement with Alameda County Transportation Commission and Its Selected Contractors from June 1, 2019 through December 31, 2021, with an Option to Extend for an Additional Six Months, for Construction Activities at the Seaport Associated with the Freight Intelligent Transportation System Program. **(Maritime)**

MEETING DATE: 11/29/2018

AMOUNT: \$0

PARTIES INVOLVED: Alameda County Transportation Commission
Art Dao, Executive Director

SUBMITTED BY: John C. Driscoll, Director of Maritime

APPROVED BY: Danny Wan, Acting Executive Director

ACTION TYPE: Ordinance

EXECUTIVE SUMMARY

Staff requests authorization from the Board of Commissioners ("Board") to delegate authority to the Executive Director to enter into a no-cost Temporary License Agreement ("TLA") with Alameda County Transportation Commission ("Alameda CTC") and its selected contractor(s) in the Port's Maritime area (the "Seaport"), for the purpose of constructing the Freight Intelligent Transportation System Program, which is an element of the GoPort Program previously authorized by the Board. Board approval is required because the duration of the TLA is longer than one (1) year.

BACKGROUND

The Port and Alameda CTC are currently partnering to design, implement and construct two major capital projects in the Seaport: the Freight Intelligent Transportation System Program ("FITS Program") and the 7th Street Grade Separation Project (7th Street GSP), collectively referred to as the "GoPort Program." This Agenda Report focuses exclusively on the FITS Program.

The FITS Program is comprised of 15 demonstration projects intended to improve traffic flow, vehicle safety and the movement of goods; enhance traveler information and experience on the roadway; and reduce congestion. Projects include the installation of automated traffic signals, radio frequency identification device ("RFID") readers, vehicle weigh-in-motion scales, WiFi connectivity, additional fiber lines, changeable message signs and queue detection technology, an emergency operations center/traffic

management center (“EOC/TMC”), and a software platform for Port stakeholders to receive real-time operation and traffic information.

Over the last few years, Alameda CTC and the Port have pursued several sources of grant funding for the FITS Program, and were recently awarded three separate grant contracts, which are:

- \$9.72 million from the Federal Highway Administration United States (U.S.) Department of Transportation under the Advanced Transportation and Congestion Management Technologies Deployment (“ATCMTD”) program, which will be administered directly by Alameda CTC.
- \$12.456 million from the California Transportation Commission (“CTC”) under the Trade Corridor Enhancement Program (“TCEP”), which will be administered directly by Alameda CTC.
- \$1.824 million from the U.S. Department of Homeland Security (“DHS”) under the Fiscal Year 2017 Port Security Grant Program (“PSGP17”), which will be administered directly by the Port.

These three grants, which total about \$24 million, are projected to cover construction costs for all 15 projects in the FITS Program. Construction is anticipated to begin in Summer 2019 and continue into December 2021. Planning and design is scheduled for completion by December 31, 2018, and was separately funded through Alameda County’s Measure BB sales tax. Refer to Exhibit A of a map of where FITS Program construction will take place in the Seaport. Note that certain construction will also occur on City of Oakland property.

ANALYSIS

Currently, the Port and Alameda CTC are working to execute two separate cooperative agreements to memorialize roles, responsibilities and obligations (financial and otherwise) associated with the FITS Program:

- one for the two (2) projects that received PSGP17 funding (RFID and the EOC/TMC), which the Port will install and construct (referred herein as the “FITS Security Projects Cooperative Agreement”); and
- one for the remaining thirteen (13) projects administered under ATCMTD and TCEP funds, which Alameda CTC will install and construct (referred herein as the “Traffic Management Projects Cooperative Agreement”).

The Board already authorized Staff to execute the Security Projects Cooperative Agreement on January 25, 2018 (Resolution No. 18-02). Staff plans to present the Traffic Management Projects Cooperative Agreement to the Board for approval in January 2019.

The TCEP grant requires Alameda CTC to secure all necessary construction right of way approvals by December 31, 2018. Board approval to enter into a TLA would constitute the right of way approval that Alameda CTC requires from the Port for the TCEP process. The key terms of the TLA(s) are as follows:

- Rent free term commencing on June 1, 2019 and terminating on December 31, 2021, with options to extend for an additional six months subject to Executive Director approval;
- Project area defined in schematic shown in Appendix A;
- Adherence to the Port's environmental ordinance (including Alameda CTC's responsibility for handling pre-existing contamination within the TLA footprint) and the Port's standard insurance provisions (including listing the Port as additionally insured); and
- A detailed workplan that outlines project schedule, scope, traffic plan, hours of activities, etc.
- Executive Director signature of the TLA is contingent upon the Board's approval of the Traffic Management Projects Cooperative Agreement in January 2019, which will detail the Port's obligations associated with the FITS Program, including ongoing operations and maintenance costs, which are currently planned to be funded solely by the Port.

The FITS Program will help determine the long-term viability of certain technologies to improve Seaport operations; as such, it is an important program and fully supported by Staff. The proposed TLA advances the FITS Program.

BUDGET & STAFFING

The proposed action does not have any budget or staffing impact. In early 2019, Staff will present the Board with updated budget projections for the FITS Program, now that more information is available on grant funding and schedule.

MARITIME AVIATION PROJECT LABOR AGREEMENT (MAPLA)

The provisions of the Port of Oakland Maritime and Aviation Project Labor Agreement (MAPLA) apply to this work.

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: Modernize and Maintain Infrastructure
- Goal: Strengthen Safety and Security

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 to this agreement because Alameda County Transportation Commission is a government agency.

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: Entering into a TLA with Alameda CTC for construction activities related to the FITS Program (which includes installing additional fiber optic cable in existing and new conduits, upgrades to the security camera system, vehicle detection equipment, changeable message signs and, other related improvements), was reviewed in accordance with the requirements of the California Environmental Quality Act ("CEQA") and applicable existing CEQA documentation. 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 Program components. The EIR was certified by the lead agency, the City of Oakland, in June 2002. On September 17, 2002, the Board of Port Commissioners, acting on behalf of the Port of Oakland as a responsible agency under CEQA, adopted findings and the mitigation program in the City's EIR (Resolution No. 02317). In 2012, the City of Oakland, in consultation with the Port, issued an Initial Study/Addendum to the Redevelopment EIR to evaluate proposed changes to the redevelopment plan. The Board of Port Commissioners approved the revised redevelopment plan and adopted the revised mitigation program on June 21, 2012 (Resolution No. 12-76). The OAB Redevelopment EIR, as addended, includes construction and installation of all supporting infrastructure, including Intelligent Transportation System elements consistent with the those in the FITS Program. This action does not trigger any of the conditions set forth in Section 15162 of the CEQA Guidelines, and no further CEQA review is thus required.

GENERAL PLAN

Pursuant to Section 727 of the City of Oakland Charter, this project has been determined to conform to the policies for the transportation designation of the Oakland General Plan.

OWNER-CONTROLLED INSURANCE PROGRAM (OCIP)

The Owner Controlled Insurance Program ("OCIP") coverages and provisions apply to the construction phase of the Port's capital improvement projects which are governed by the proposed TLA.

OPTIONS

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

1. Authorize the Executive Director to execute a TLA with Alameda CTC and its contractors for the construction of 13 projects within the FITS Program, as outlined in this agenda report. This is the recommended option.
2. Authorize the Executive Director to execute a TLA with Alameda CTC and its contractors under different terms than those proposed herein (for example, with compensation payable to the Port, or for a different duration). If directed, Staff can discuss the implications of changing various terms, depending on the change.
3. Do not authorize the Executive Director to execute a TLA with Alameda CTC and its contractors as described herein. As a result, Alameda CTC will be unable to meet the TCEP obligations of securing right of way approvals for construction from the Port by December 31, 2018. This will likely result in the loss or deferral of funding, and will jeopardize the current project schedules.

RECOMMENDATION

Staff recommends that the Board approve and authorize the Executive Director to:

Adopt an Ordinance that authorizes the Executive Director to enter into a no-cost temporary license agreement with Alameda County Transportation Commission and/or its contractors to construct various projects under the FITS Program commencing on June 1, 2019 and terminating on December 31, 2021, with an option to extend the term for an additional six months at the Executive Director's sole discretion, contingent upon the Board of Commissioners' approval of the Traffic Management Projects Cooperative Agreement.

APPENDIX A

Geographic Area of the TLA for the FITS Program

