

## AGENDA REPORT

**Resolution:** Approve the Port of Oakland Sanitary Sewer System Condition Assessment Plan and Delegate Authority to the Executive Director to Approve Future Amendments to the Condition Assessment Plan **(Engineering)**

**MEETING DATE:** 6/13/2019

**AMOUNT:** No Amount Involved<sup>1</sup>

**PARTIES INVOLVED:**

**SUBMITTED BY:** Robert Andrews, Interim Director of Engineering/Chief Engineer

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

**ACTION TYPE:** Resolution

**EXECUTIVE SUMMARY**

The Board of Port Commissioners ("Board") adopted Ordinance 4474 on May 10, 2018 ("Port PSL Ordinance"). This Port PSL Ordinance requires Port of Oakland ("Port") tenants to comply with private sewer lateral ("PSL") regulations promulgated by the City of Oakland ("City") and the East Bay Municipal Utility District ("EBMUD") as modified to apply to Port-owned land. The Port PSL Ordinance also directs Port staff to prepare a Port Condition Assessment Plan ("CAP") to assess Port-controlled PSLs at the Airport, in the Seaport, and throughout the Port's Commercial Real Estate holdings. The Condition Assessment Plan ("CAP") describes the plan for inspecting Port-controlled sanitary sewer pipelines and assessing the potential for groundwater infiltration and storm water inflow which could result in sanitary sewer overflows or discharge of partially treated sewage from the EBMUD's wet weather facility during storm events. Staff has completed and now seeks Board approval of the CAP. Anticipating the need for potential future changes to the CAP, staff further requests that the Board delegate authority to the Executive Director to approve amendments to the CAP.

## **BACKGROUND**

The Environmental Protection Agency ("EPA"), the State Water Resources Control Board ("State Water Board"), and the San Francisco Regional Water Quality Control Board ("Regional Board") regulate discharges into the San Francisco Bay, pursuant to the Federal

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<sup>1</sup> There is no fiscal impact associated with the approval of the Sanitary Sewer System Condition Assessment Plan. Funding and resources to perform the assessment of the Port-owned and -maintained sewer lines in accordance with the implementation schedule will be included in the annual budget request.

Clean Water Act and the California Water Code. In 2006, the State Water Board adopted the Waste Discharge Requirements (“WDRs”) for sanitary sewer systems, Water Quality Order No. 2006-0003, requiring any public entity that owns and operates a sanitary sewer collection system with more than one mile of pipes to create and implement a sanitary sewer overflow (“SSO”) reduction program. The Port owns, operates, and maintains an extensive sanitary sewer collection system that convey sewage to the City’s collection system and to EBMUD’s wastewater treatment facility. The Port’s sewer collection system serves the Port tenants, customers, employees, and the general public in the Seaport, Airport and Commercial Real Estate areas.

In 2009, the EPA, the State of California (“State”), regional water boards, and two community organizations sued the City, EBMUD and six other public agencies (the “Named Defendants”) citing violations of the Clean Water Act and the California Water Code by discharging raw or partially treated wastewater into surface waters of the State. In response to the lawsuit (hereafter, the “EPA Lawsuit”), EBMUD adopted a Regional PSL Ordinance (the “EBMUD Ordinance”) in 2010, and amended thereafter, and the City subsequently amended its municipal codes to enforce the provisions of the EBMUD Ordinance (the “City PSL Ordinance”). The EBMUD Ordinance establishes regulations for the inspection, testing, repair, replacement, and ongoing maintenance of PSLs within EBMUD’s service area, and the City codes adopt by reference the EBMUD Ordinance. Since 2014, the Port has been collaborating with the City and EBMUD to develop strategies to ensure appropriate Port participation in the existing and evolving regulatory framework. As a result, the Board adopted the Port PSL Ordinance on May 10, 2018.

Under the Port PSL Ordinance, Port tenants are responsible for inspecting, repairing, or replacing sewer laterals in accordance with the City’s and EBMUD’s respective ordinances when they take actions that trigger the application of the City’s and EBMUD’s inspection requirements, including constructing improvements over \$100,000 or adding a water meter. The Port PSL Ordinance also requires the Port to prepare a CAP, for Board approval, no later than June 30, 2019 to cover all sewer laterals that will not be maintained by Port tenants, including all Port-owned and Port-maintained sewer lines on Port property and sewer lines within a leasehold property that serve more than one tenant (“Port Controlled Sewer Assets”). The CAP is completed and ready for Board consideration and approval.

As required by the Port PSL Ordinance, once the CAP has been implemented, Port staff will prepare a Corrective Action Work Plan (“CAWP”) which shall describe the type, quantity, and schedule of work needed to bring all Port Controlled Sewer Assets into compliance with EBMUD maintenance standards. As required by the Port PSL Ordinance, the CAWP will be brought to the Board for approval no later than June 30, 2023.

## **ANALYSIS**

### **CAP Development**

The development of the CAP was a collaborative effort among Port staff in Engineering, the Port Attorney's Office, and the revenue divisions with assistance from Mott MacDonald, an engineering consulting firm selected through a formal competitive procurement process. In preparation of the CAP, Mott MacDonald conducted extensive field work to verify the inventory of Port sewer system infrastructure including mapping the locations of sanitary sewer lines, manholes, and cleanouts within the Port controlled property.

Based on that mapping and consultation with the revenue divisions, the CAP provides a preliminary assessment of the Port Controlled Sewer Assets (assets the Port has the responsibility to assess and upgrade) and the portions of the Port's collection system that are the responsibility of Port tenants. The CAP includes the methods of inspecting and assessing the conditions of sewer lines and an implementation schedule for completing the assessment work within the next four years from FY2020 to FY2023. Approving the CAP will allow the Port to meet its obligations under the Port PSL Ordinance.

### **CAP Implementation**

Table 1, below, summarizes the approximate quantities of sewer pipe in linear feet ("LF"), which the Port intends to assess for each of the next four years, to complete the assessment of the Port Controlled Sewer Assets.

**Table 1. Quantity of Port Maintained Sewers to be Inspected and Assessed ("LF")**

<b>Revenue Division</b>	<b>FY 19-20</b>	<b>FY 20-21</b>	<b>FY 21-22</b>	<b>FY 22-23</b>	<b>Total</b>
<b>Maritime</b>	3,000 LF	6,000 LF	7,000 LF	4,000 LF	20,000 LF
<b>Aviation</b>	12,500 LF	12,500 LF	12,500 LF	12,500 LF	50,000 LF
<b>Commercial Real Estate (CRE)</b>	0 LF	7,000 LF	3,000 LF	0 LF	10,000 LF

In addition to the Port PSL Ordinance and the CAP, the Port has implemented a number of sanitary sewer rehabilitation projects to address more immediate sanitary sewer repairs and several more are currently in the planning or design stage. These additional efforts include repair of various sewer laterals and rehabilitation of several lift or pump stations at the Airport and Seaport. While these projects have largely been driven by operational needs or urgent repairs to address overflows, the repairs accomplish the same goals of reducing SSO and infiltration and inflow of groundwater and/or storm water that the CAP and subsequent CAWP are intended to accomplish. In addition, the Port has ongoing contracts, which perform closed-circuit television ("CCTV") inspections, and have recently completed extensive CCTV work in the Maritime Outer Harbor area, the Jack London Square area, and portions of the Airport. Further, substantial redevelopment has occurred in the Seaport (e.g., Cool Port Oakland) in recent years and will continue with major projects planned (e.g., 7<sup>th</sup> Street Grade Separation) and underway (e.g., CenterPoint's Seaport Logistics Complex) along Maritime Street on the site of the former Oakland Army Base. These projects are expected to include major sanitary sewer utility improvements.

### **CAP Modifications and Revisions**

Modifications or revisions to the CAP may become necessary in the future as additional information is gathered during the assessment phase including identifying tenant obligations in lease agreements, changes in lease agreements and leasehold property boundaries, and changes to the configuration of the sanitary sewer system due to Port planned projects or tenant development and/or improvement projects. In addition, certain amendments to the EBMUD Ordinance or changes to City PSL Ordinance may also compel revisions to the CAP. Accordingly, the CAP should be considered a living document that likely will need to be updated over time.

Therefore, in addition to approving the CAP, the Board is being requested to delegate authority to the Executive Director to approve future amendments to the CAP as necessary to assure conformance and consistency with the policies and procedures required to keep the Port in full compliance with local regulatory requirements.

### **BUDGET & STAFFING**

While there is no fiscal impact associated with approval of the CAP, annual costs to inspect and assess the conditions of the Port Controlled Sewer Assets are estimated for the next four years as follows:

<b><u>FY</u></b>	<b><u>Maritime Area/CRE</u></b>	<b><u>Aviation Area</u></b>	<b><u>Total</u></b>
<b><u>2019/2020</u></b>	<b><u>\$300,000</u></b>	<b><u>\$500,000</u></b>	<b><u>\$800,000</u></b>
<b><u>2020/2021</u></b>	<b><u>\$350,000</u></b>	<b><u>\$450,000</u></b>	<b><u>\$800,000</u></b>
<b><u>2021/2022</u></b>	<b><u>\$350,000</u></b>	<b><u>\$450,000</u></b>	<b><u>\$800,000</u></b>
<b><u>2022/2023</u></b>	<b><u>\$500,000</u></b>	<b><u>\$500,000</u></b>	<b><u>\$1,000,000</u></b>
<b><u>Total</u></b>	<b><u>\$1,500,000</u></b>	<b><u>\$1,900,000</u></b>	<b><u>\$3,400,000</u></b>

These implementation costs are comprised of Port labor, professional consultant costs, and public works contractor costs to perform the work. These costs will be requested during the annual budget approval process. Budget approval for any repairs and improvements resulting from the assessment will be brought to the Board for approval, as appropriate.

### **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
- Goal: Care for Our Environment

### **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. Opportunities for sustainability will be evaluated when projects to bring Port Controlled Sewer Assets into compliance with the EBMUD standards are implemented in the future.

### **ENVIRONMENTAL**

CEQA Determination: The proposal to approve the sewer lateral Condition Assessment Plan was reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines. The action, which entails inspection and collection of data on the condition of sewer laterals and does not result in a serious or major disturbance to an environmental resource, is categorically exempt from CEQA per Section 15306, Information Collection, of the CEQA Guidelines. No further CEQA review 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)**

The Owner Controlled Insurance Program (OCIP) does not apply to the matters addressed by this Agenda Report as they are not capital improvement construction projects; however, OCIP coverages and provisions would apply to Capital Improvement Plan projects identified by the corrective action work plan.

## **OPTIONS**

The following are the options for the Board's consideration:

1. Approve the Port of Oakland Sanitary Sewer System Condition Assessment Plan ("CAP") and delegate authority to the Executive Director to approve future amendments to the CAP. This is the recommended action.
2. Approve the Port of Oakland Sanitary Sewer System Condition Assessment Plan ("CAP") with modifications to the implementation schedule as outlined herein, or as may be directed by the Board.
3. Do not approve the Port of Oakland Sanitary Sewer System Condition Assessment Plan ("CAP") and direct staff to prepare a new plan.

## **RECOMMENDATION**

Staff recommends that the Board approves the Port of Oakland Sanitary Sewer System Condition Assessment Plan ("CAP") and delegate authority to the Executive Director to approve future amendments to the CAP.

### **Attachment:**

1. Port of Oakland Sanitary Sewer System Condition Assessment Plan, May 17, 2019  
– prepared by Mott MacDonald