

AGENDA REPORT

Resolution: Approve and Authorize the Executive Director to Execute a Memorandum of Understanding with Alameda County Transportation Commission and the City of Oakland to Define Roles, Responsibilities, and Authorities Associated with the 7th Street Grade Separation East Project (GoPort Program). **(Maritime/Engineering)**

MEETING DATE: 11/21/2019

AMOUNT: \$0

PARTIES INVOLVED: Alameda County Transportation Commission
Art Dao, Executive Director
City of Oakland
Sabrina Landreth, City Manager

SUBMITTED BY: John C. Driscoll, Director of Maritime

APPROVED BY: Danny Wan, Interim Executive Director

ACTION TYPE: Resolution

EXECUTIVE SUMMARY

Port of Oakland (Port) staff is seeking authorization to execute a Memorandum of Understanding (MOU) to define and memorialize the roles, responsibilities and authorities between Alameda County Transportation Commission (Alameda CTC), the City of Oakland (City), and the Port for the delivery of the east segment of the 7th Street Grade Separation project.

BACKGROUND

Alameda CTC, the City of Oakland (City), and the Port have been collaborating for several years to develop and implement a suite of freight transportation projects known as the GoPort Program, which will address congestion, operation, and access concerns in the Port's Maritime Area (Seaport). The GoPort Program comprises the following three distinct projects; (i) Freight Intelligent Transportation System, (ii) the 7th Street Grade Separation East (7SGSE) project, and (iii) the 7th Street Grade Separation West (7SGSW) project.

The 7SGSE project will re-align roadway and replace the existing 7th Street roadway/railroad underpass structure between I-880 and Maritime Street to provide standard lane and shoulder widths, vertical and horizontal clearances and standard multi-use paths to improve safety, increase truck and other vehicle throughput, reduce traffic congestion, as well as provide

opportunities for safe non-motorized movements within the corridor. Alameda CTC is the implementing agency, ultimately responsible for the design, right-of-way acquisition, construction, and funding of the 7SGSE project. However, since 7th Street is a City street that is a major gateway to the Port's maritime operations, Alameda CTC has been working closely with the Port and City to ensure the design of the 7SGSE project meets the applicable operation, design, and policy standards, in addition to the general needs/interests of the City and Port. Alameda CTC has also been responsible for coordinating with Union Pacific Railroad (UPRR) regarding impacts to the rail component of this project. The current cost estimate to design and construct the 7SGSE project is \$328 million. A funding shortfall remains at approximately \$115 million. Alameda CTC is committed to closing this funding gap using regional and local funds that have been secured but were initially planned for other potential initiatives.

The Port initially entered into an MOU with Alameda CTC for the entirety of the GoPort Program in May 2016. This MOU contains general information regarding the entirety of the GoPort Program, and does not (a) provide sufficient detail for the 7SGSE project, and (b) include the City as a signatory. Since the realigned and newly constructed 7th Street will remain a City street, it is necessary for the City to become involved in the 7SGSE Project.

ANALYSIS

Work has progressed on the design of the 7SGSE project with the City, Alameda CTC, and Port working together in good faith in the absence of a formal three-party agreement. However, with the project advancing and commencement of construction nearing, significant coordination is required among the City, Alameda CTC, and the Port on efforts such as:

- Plans, specifications, and estimates ("PS&E") (anticipated to be complete in early 2020); and
- Bidding and contracting (anticipated to occur in mid-2020); and
- Construction (commencement anticipated to occur in late 2020, with a duration of approximately 30 months).

The proposed MOU specific to the 7SGSE project is necessary to clearly define the respective roles, responsibilities, and authorities in addition to serving as a guide for the respective intentions and policies of the Port, City, and Alameda CTC. The proposed MOU would memorialize the collaborative structure that is currently in place among Alameda CTC, the City, and the Port to deliver the 7SGSE project. Key provisions of the MOU that pertain to the Port are summarized below:

- Alameda CTC is the agency responsible for the funding, design, right-of-way needs, construction, and overall delivery of the 7SGSE project.
- Alameda CTC will work collaboratively with the City and Port to ensure the 7SGSE project meets the applicable operation, design, and policy standards, in addition to the general needs and interests of the City and Port.
- The Port will provide Alameda CTC with technical review to ensure standards and general needs and interests of the Port are met.

- Alameda CTC will not advertise or issue the plan set for construction bidding until the City and Port provide written approval.
- The Port will provide Alameda CTC with a no-cost Temporary License Agreement needed to construct the project.
- Up to 3 acres of Port property are required for the 7SGSE project, and will be contributed by the Port at no cost to the project.
- The Port will work with the City to ensure necessary timely transfer of necessary property rights.
- Alameda CTC will involve the City and Port in the negotiation and preparation of agreements needed with UPRR.
- Prior to the award of the construction contract, Alameda CTC, City and Port will memorialize the roles and responsibilities for construction as a future amendment to the proposed MOU.
- The Port will continue to coordinate community outreach activities with Alameda CTC.

BUDGET & STAFFING

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

MARITIME AVIATION PROJECT LABOR AGREEMENT (MAPLA)

Authorizing the Executive Director to execute a MOU does 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. Further, the provisions of the MAPLA do not apply to the construction work administered by Alameda CTC, which is a separate government agency.

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: Serve Our Community

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 the proposed MOU.

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 the proposed MOU as it is not a development project, purchasing of equipment, or operations that presents sustainability opportunities. However, upon completion, the 7SGSE project is intended to improve traffic flow and overall efficiency of Seaport-related transportation; as such, the proposed action may contribute to sustainable operations and improved air quality.

ENVIRONMENTAL

This 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, including the former OAB and the Maritime sub-district. The EIR was certified by the lead agency, the City of Oakland, in July 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, including more detailed information on the Project. The resulting updated Standard Conditions of Approval/Mitigation Monitoring and Reporting Program (SCA/MMRP) was adopted by the Board of Port Commissioners on June 21, 2012 (Resolution No. 12-76). The 7th Street Grade Separation East Project was included in the 2002 Redevelopment EIR and the 2012 Addendum. The Port has determined that no supplemental review under CEQA would be required per Section 15162 of the CEQA Guidelines. The Port has prepared an Addendum per Section 15164 of the CEQA Guidelines to document minor changes in the Project as described in the 2002 Redevelopment EIR as addended.

GENERAL PLAN

Authorizing the Executive Director to execute a MOU 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. Pursuant to Section 727 of the City of Oakland Charter, the 7SGSE project resulting from the proposed MOU has been determined to conform to the policies for the transportation designation of the Oakland General Plan

OWNER-CONTROLLED INSURANCE PROGRAM (OCIP)

The proposed MOU is not subject to the Port's Owner Controlled Insurance Program (OCIP), as it is not a capital improvement construction project. Further the applicable OCIP coverages and provisions will not apply to the construction activities since Alameda CTC will deliver the 7SGSE project.

OPTIONS

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

1. Authorize the Executive Director to execute a MOU with Alameda County Transportation Commission and the City of Oakland to memorialize roles, responsibilities, and authorities needed to deliver the 7SGSE project, as outlined in this agenda report. **This is the recommended option.**
2. Authorize the Executive Director to execute a MOU with Alameda County Transportation Commission and the City of Oakland to memorialize roles, responsibilities, and authorities needed to deliver the 7SGSE project under different terms than those proposed herein. If directed, Staff can discuss the implications of changing various terms.
3. Do not authorize the Executive Director to execute a MOU with Alameda County Transportation Commission and the City of Oakland. As a result, the project will continue without documentation of the roles and responsibilities of the Alameda County Transportation, the City of Oakland, and the Port for the 7SGSE. This may result in future conflicts, or additional time to resolve conflicts that may arise.

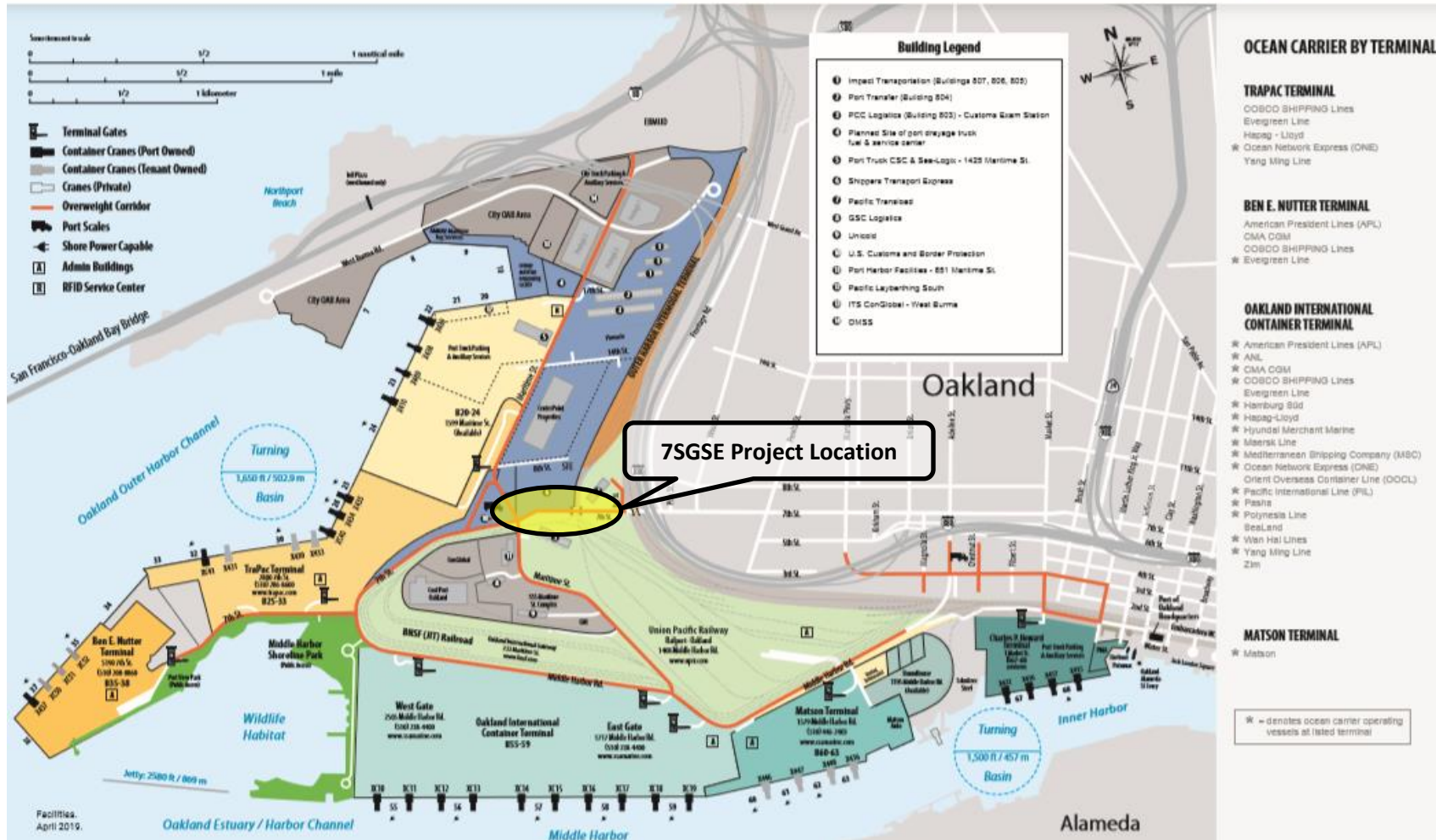
RECOMMENDATION

Staff recommends that the Board adopt the resolution authorizing the Executive Director to execute a MOU with Alameda County Transportation Commission and the City of Oakland to define roles, responsibilities and authorities associated with the 7SGSE project.

ATTACHMENT 1

Location Map

SEAPORT FACILITIES



ATTACHMENT 2

Aerial View of 7SGSE Project Vicinity

