

AGENDA REPORT

Ordinance: Approve and Authorize the Executive Director to Enter into a No-Cost Temporary License Agreement with Alameda County Transportation Commission for Certain Port Lands Located Along 7th Street Near the Intersection of 7th Street and Maritime Street, Providing for Various Activities in Support of Constructing the 7th Street Grade Separation East Project through December 31, 2024. **(Maritime/Engineering)**

MEETING DATE: 11/21/2019

AMOUNT: \$0

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

SUBMITTED BY: John C. Driscoll, Director of Maritime
Rob Andrews, Acting Director of Engineering

APPROVED BY: Danny Wan, Interim Executive Director

ACTION TYPE: Ordinance

EXECUTIVE SUMMARY

Port of Oakland (Port) staff is seeking authorization to enter into a no-cost Temporary License Agreement (TLA) with Alameda County Transportation Commission (Alameda CTC). The TLA would provide Alameda CTC with the necessary mechanism to access Port property near the intersection of 7th Street and Maritime Street to construct the 7th Street Grade Separation East (7SGSE) project. The TLA will terminate upon earlier of (i) completion of construction activities, or (ii) December 31, 2024.

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 7SGSE project is currently in the plans, specifications, and estimates ("PS&E") phase. The 60% PS&E document set was finalized in September 2019, with the Final PS&E documents anticipated to be complete in early 2020. Construction bidding and contracting is anticipated to occur in mid-2020, followed by construction commencement in late 2020. Construction is anticipated to last approximately 30 months.

A Memorandum of Understanding (MOU) relating specifically to the 7SGSE project has been prepared for Board consideration that defines the respective roles, responsibilities, authorities and intentions of the Port, City, and Alameda CTC for the implementation of the 7SGSE project. Staff is separately requesting the Board's approval of the MOU at the November 21, 2019 Board meeting.

ANALYSIS

Alameda CTC is the agency ultimately responsible for the funding, design, right-of-way acquisition, construction, and overall delivery of the 7SGSE project. In this role, it will be necessary for Alameda CTC, and its contractors, agents, representatives and employees to access and use Port property for staging, construction, and installation of improvements that comprise the 7SGSE project. A Temporary License Agreement (TLA) is the appropriate mechanism to provide Alameda CTC with the necessary access and rights to construct the 7SGSE project on Port property. The TLA is also one component of Alameda CTC's submittal to the State of California Department of Transportation to obtain Right of Way (ROW) Certification. The ROW Certification essentially provides confirmation the necessary rights are in place to construct the project. Further, the ROW Certification is needed by February of 2020 to meet certain grant funding obligations. Attachment 3 provides an illustration of the Port property impacted by the proposed TLA.

Key provisions of the proposed TLA include:

- Alameda CTC is required to provide a written notice of intent at least two hundred ten (210) days prior to access of the Port property. This provides the Port with appropriate time to provide required notice to certain tenants to vacate a portion of their premises.

- Alameda CTC is required to provide a detailed work plan at least one hundred twenty (120) days prior to access of the Port property.
- Alameda CTC may not access the Port property until the Port has provided written approval of the work plan.
- The proposed TLA shall terminate on the earlier of December 31, 2024, or upon substantial completion of field construction work.

The proposed TLA does not transfer ownership of any Port property. The 7SGSE MOU between the Port, City, and Alameda CTC anticipates the Port will be required to offer the newly constructed 7th Street ROW located on Port property to the City for a public street. The required transfer of the Port's property rights will require Board consideration, which is anticipated to occur as construction activity nears completion.

BUDGET & STAFFING

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

MARITIME AVIATION PROJECT LABOR AGREEMENT (MAPLA)

The provisions of the Port of Oakland Maritime and Aviation Project Labor Agreement ("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 this agreement because Alameda CTC is a government agency.

SUSTAINABILITY

Alameda CTC is leading the design of the project and did not complete the Sustainability Opportunities Assessment Form. There are no sustainability opportunities related to the proposed TLA 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), which 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 enter into a TLA 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 7SGS project resulting from the TLA has been determined to conform to the policies for the transportation designation of the Oakland General Plan

OWNER-CONTROLLED INSURANCE PROGRAM (OCIP)

This project is not subject to the Port's Owner Controlled Insurance Program (OCIP) as it is not the Port's capital improvement construction project, but rather Alameda CTC's project.

OPTIONS

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

1. Authorize the Executive Director to execute a TLA with Alameda CTC for construction activities associated with the 7SGSE project, as outlined in this agenda report. **This is the recommended option.**

2. Authorize the Executive Director to execute a TLA with Alameda CTC 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.
3. Do not authorize the Executive Director to execute a TLA with Alameda CTC as described herein. As a result, Alameda CTC will be unable to meet the funding obligations that require right of way approvals for construction from the Port. This will likely result in the loss or deferral of funding, and will jeopardize the current project schedule.

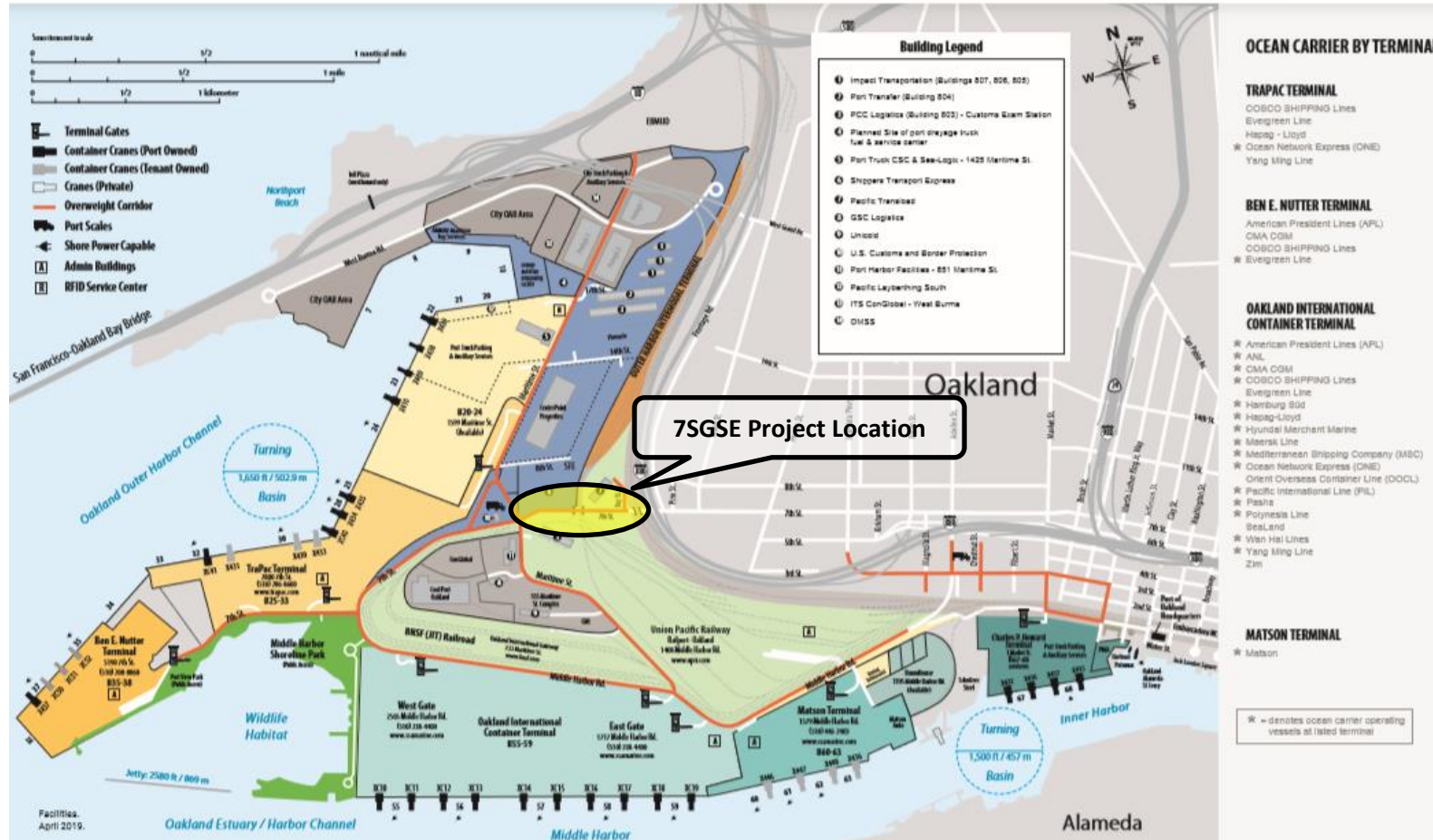
RECOMMENDATION

Staff recommends that the Board adopt an ordinance authorizing the Executive Director to enter into a no-cost Temporary License Agreement with Alameda County Transportation Commission for certain Port property located along 7th Street near the intersection of 7th Street and Maritime Street, providing for various activities in support of the 7th Street Grade Separation East project.

ATTACHMENT 1

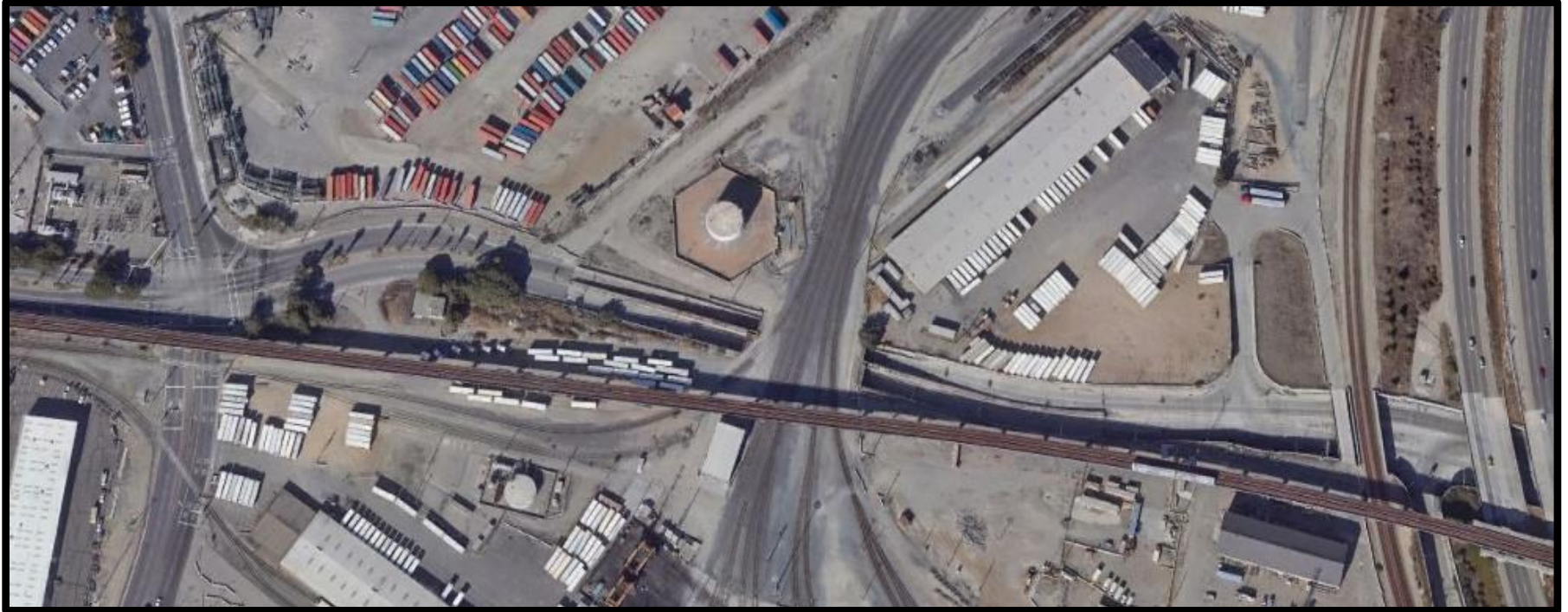
Location Map

SEAPORT FACILITIES



ATTACHMENT 2

Aerial View of 7SGSE Project Vicinity



Port Property Impacted by TLA

