

AGENDA REPORT

Ordinance: Authorize the Executive Director to Execute an Encroachment Agreement with Union Pacific Railroad Company to Install Radio Frequency Identification Device Equipment and Train Detection Equipment Associated with the Freight Intelligent Transportation System Program on Railroad Property Along Middle Harbor Road. (Maritime)

MEETING DATE: 12/12/2019

AMOUNT: \$0

PARTIES INVOLVED: Union Pacific Railroad Company
Gregory A. Brigham, Director, Real Estate Contracts

SUBMITTED BY: John C. Driscoll, Director of Maritime

APPROVED BY: Danny Wan, Executive Director

ACTION TYPE: Ordinance

EXECUTIVE SUMMARY

Port staff requests authorization from the Board of Port Commissioners to enter into an encroachment agreement with Union Pacific Railroad Company to install, operate and maintain radio frequency identification device and train detection equipment on railroad property located directly off Middle Harbor Road. This effort is part of the Freight Intelligent Transportation System, which is an element of the GoPort Program. The encroachment agreement outlines the roles and responsibilities of the Port and Alameda County Transportation Commission for construction, operation and maintenance.

BACKGROUND

The Freight Intelligent Transportation System ("FITS") is comprised of 15 demonstration information technology projects intended to improve traffic flow, vehicle/pedestrian safety and the overall movement of goods in the Port's Maritime area ("Seaport"). FITS is an element of the GoPort Program. Alameda County Transportation Commission ("Alameda CTC") is responsible to construct 14 of the 15 FITS improvements; the Port is responsible to construct an emergency operations and traffic management center, which is partly funded with federal port security grant funds.

Over the last several years, approximately \$30.6 million in local, state and federal funding has been secured to implement FITS: \$6.6 million for preliminary planning, specifications and estimates ("PS&E") and \$24 million for construction work. PS&E is complete and FITS

is now entering the construction phase. Construction work is anticipated to start in early 2020 and finish in 2021.

FITS improvements will be installed near or along the main transportation corridors in the Seaport, including 7th Street, Maritime Street and Middle Harbor Road. While most of the infrastructure improvements are on Port property, a few improvements are on adjacent or nearby properties owned/controlled by City of Oakland ("City"), California Department of Transportation ("Caltrans"), and Union Pacific Railroad Company ("UP") property.

ANALYSIS

The FITS Program provides direct benefit to the Port by improving traffic and safety conditions in the Seaport. Installation of the RFID and train detection equipment on UP property is particularly beneficial, as it will help capture vehicle and train movement in an important and busy area of the Seaport. Port staff investigated the possibility of placing the equipment on Port property in the immediate vicinity of the proposed location, but no viable alternative location was identified given the geometry of existing infrastructure.

An agreement is already in place between Alameda CTC and Caltrans to install certain FITS equipment on Caltrans property, and Alameda CTC is currently working on a comparable agreement with the City. The Port is also working on separate agreements with these two agencies for on-going operations and data sharing following construction.

Two of the FITS improvements, train detection equipment and radio frequency identification device ("RFID") readers, are planned to be installed on UP property at the main entrance and exit gates of the UP Railport facility, directly off Middle Harbor Road. Port staff is seeking Board approval to enter into an encroachment agreement ("Encroachment Agreement") with UP to install, operate and maintain this RFID and train detection equipment.

The key terms of the proposed Encroachment Agreement are as follows:

- Alameda CTC (as the "Contractor") will be responsible for installing and constructing the RFID and train detection equipment on UP property, including securing all necessary permits and approvals to perform such work;
- Although the proposed Encroachment Agreement language stipulates that the Port (as the "Licensee") is responsible for paying the associated fee under the agreement (\$56,650), Alameda CTC has committed in writing to the Port that it will pay this fee directly to UP as a FITS project cost;
- The Port will be responsible for operating and maintaining the RFID and train detection equipment on UP property; and
- There is no expiration date. Should the Port wish to terminate the Encroachment Agreement, it must follow UP's standard termination guidelines under its general permits for encroachment (to either remove the equipment or abandon in place).

BUDGET & STAFFING

The proposed action to enter into an Encroachment Agreement does not have an impact on the Port's budget because Alameda CTC will be directly paying the \$56,650 fee to UP, nor does it have an impact on Port staffing.

MARITIME AVIATION PROJECT LABOR AGREEMENT (MAPLA)

The provisions of the Port of Oakland Maritime and Aviation Project Labor Agreement ("MAPLA") do apply to the construction portion of the work administered by Alameda CTC.

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.

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 or purchasing of equipment (other than hardware/software and related IT equipment), or operations that presents sustainability opportunities. Installation and operation of the RFID and train detection equipment as outlined in this Agenda Report, however, are intended to improve traffic flow and overall efficiency of Seaport-related transportation; as such, the proposed action contributes to sustainable operations.

ENVIRONMENTAL

California Environmental Quality Act ("CEQA") Determination: Entering into the proposed Encroachment Agreement with UP related to the FITS Program for installing, operating and maintaining RFID and train detection equipment was reviewed in accordance with the requirements of 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 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 proposed 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)

This construction component of 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 an Encroachment Agreement with UP for the installation of RFID and train detection equipment at the UP Railport facility, as part of the FITS Program, as outlined in this Agenda Report. This is the recommended option.
2. Authorize the Executive Director to execute the Encroachment Agreement, but 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 an Encroachment Agreement with UP for the installation of RFID and train detection equipment. Under this option, the Port will not be able to install RFID and train detection equipment on UP property, which would prevent collecting train and vehicle data at this key location of the Seaport.

RECOMMENDATION

Staff recommends that the Board adopt an ordinance that authorizes the Executive Director to enter into an Encroachment Agreement with Union Pacific Railroad Company ("UP") that would:

- Allow Alameda County Transportation Commission (“Alameda CTC”) to install, on UP Railport property, radio frequency identification device (“RFID”) readers and train detection equipment that are part of the Freight Intelligent Transportation System (“FITS”) Program;
- Provide the Port access to operate and maintain the equipment in perpetuity, unless the Port terminates the Agreement;
- Require the payment of \$56,650, which Alameda CTC will pay directly to UP as a project cost.

APPENDIX A

Location of RFID and Train Detection Equipment on UP Property

