

AGENDA REPORT

Ordinance and Resolution: Approvals and Authorizations for the Airport Perimeter Dike Improvements (Phase 1B) Project: Approve Project Budget and Spending Authority of \$500,000, Authorize the Executive Director to execute the Access License Agreement with the City of San Leandro, and Authorize the Executive Director to execute the Assignment of Easement with Harbor Bay Isle Associates (**Aviation**)

MEETING DATE: 12/12/2019

AMOUNT: \$500,000 Budget Authority
\$500,000 Spending Authority
Capital Expenditure

PARTIES INVOLVED: Keith Cooke, Director of Engineering and Transportation Department, City of San Leandro

Daniel F Reidy, Counsel and Board Secretary, Harbor Bay Isle Associates, A California General Partnership, Alameda, CA

SUBMITTED BY: Bryant L. Francis C.M., Director of Aviation

APPROVED BY: Danny Wan, Executive Director

ACTION TYPE: Ordinance and Resolution

EXECUTIVE SUMMARY

The Airport Perimeter Dike (APD) Improvements (Phase 1B) project will construct improvements on land owned by third parties. This Agenda Report seeks Board budget approval and contract authority for the APD Improvements project. The requested actions are as follows:

- (1) Approve a project budget and spending authority of \$500,000 to pay for the Access License Agreement with the City of San Leandro for the APD Improvements project;
- (2) Authorize the Executive Director to execute the Access License Agreement with the City of San Leandro;

(3) Authorize the Executive Director to execute the Assignment of Easement with Harbor Bay Isle Associates

BACKGROUND

The Airport Perimeter Dike (APD) protects facilities at the Oakland International Airport (OAK) South Field—including the main air carrier Runway 12-30, taxiways and airfield pavement, passenger terminals, air cargo facilities (UPS and Federal Express), and other support facilities, from inundation by water from the San Francisco Bay. The APD is approximately 4.5 miles long, comprised primarily of sand, gravel or clay with a concrete rubble outboard face and wave crest structure. Some segments of the APD do not meet the Federal Emergency Management Administration (FEMA) flood control standards and some segments have seismic vulnerabilities.

Figure 1. Airport Perimeter Dike Improvements



The Eastern end of the APD improvements tie into high ground located on property owned by the City San Leandro. The Board previously authorized the Executive Director to execute an Easement Agreement with the City of San Leandro at its meeting on December

3, 2015. This grant of easement was in exchange for the easement provided by the Port of Oakland, Port Ordinance No. 4466 approved on March 22, 2018, to the City of San Leandro for the development of Eden Road in the City of San Leandro. There was no monetary consideration for the exchange of these easements.

Subsequent to these authorizations, the Port and City of San Leandro negotiated an Access License Agreement to facilitate the construction and maintenance of the APD into the future. As part of this negotiation, the Port has agreed to pay \$500,000 for the Access License Agreement.

At the northern end of the APD improvements, the Port will construct an earthen embankment that ties into higher ground controlled by Harbor Bay Isle Associates, the developer of the Harbor Bay Business Park in the City of Alameda.

ANALYSIS

City of San Leandro

The eastern terminus of the APD will pass through the City of San Leandro Water Pollution Control Plant as shown in Figure 2.

Figure 2: City of San Leandro Easement Area



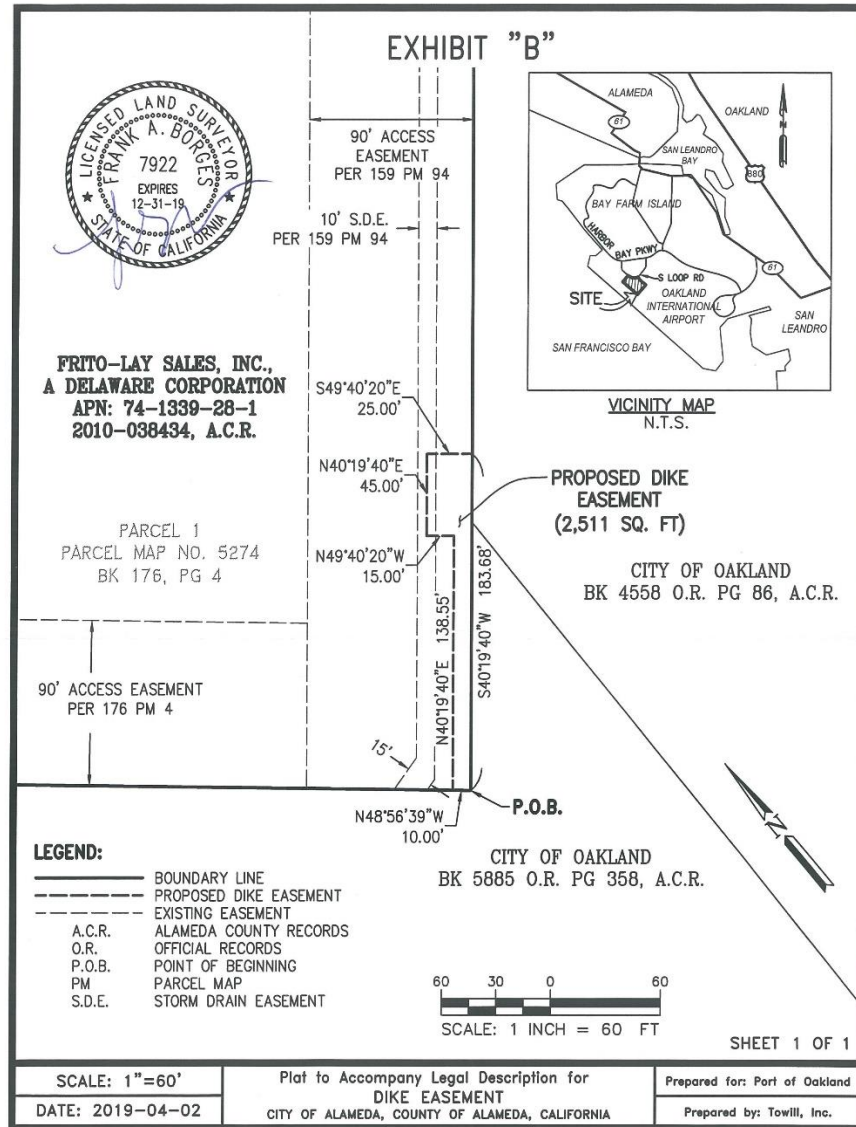
The improvements in this area will entail raising the dike by 2-3 feet and then connecting to high ground on the perimeter of the Metro Links Golf Course. These improvements are adjacent to the San Francisco Bay Trail. In order to minimize any conflicts with users of the Trail, the Port will utilize construction access routes that traverse the San Leandro Water Pollution Control Plant and exit on to Davis Street. It is expected that the San Leandro City council will consider this same transaction at their meeting on December 2, 2019.

The Port desires to obtain an Access License Agreement from the City to gain access via the San Leandro Water Pollution Control Plant during the construction and for future maintenance of the APD improvements. It has been determined that this solution is more cost effective than attempting to construct the project solely on Port property. The Port would pay \$500,000 for this Access License Agreement based on negotiation between the parties.

Harbor Bay Isle Associates

At the northern end of the APD improvements, the Port will construct an earthen embankment that ties into higher ground controlled by Harbor Bay Isle Associates. The subject land adjacent to the APD is dedicated for the purpose of conveying storm water from properties in the Business Park to the Airport Lagoon and is subject to a perpetual easement for such use. The proposed APD Easement is show below in Figure 3.

Figure 3: Harbor Bay Isle Associates Easement



Harbor Bay Isle Associates developed the Harbor Bay Business Park in the mid-1980's and reserved the rights to easements for flood control purposes on this parcel which is currently owned by the Frito Lay Corporation. Harbor Bay Isle Associates has agreed to assign its easement to the Port of Oakland for no monetary consideration.

BUDGET & STAFFING

The remaining APD Improvements project (Phase 1B and Phase 2) cost is approximately \$56.6 million and is included in the current 5-year Capital Improvement Plan. The project will be partially funded with an existing State Local Levee Assistance Program (LLAP) grant in the amount of \$5 million and the remaining costs will be funded with Port cash, the majority of which will be recoverable through airline rates and charges.

Prior Board action on September 12, 2019, authorized the award of construction contract and increased the total approved project budget to \$26.5 million. This agenda report requests approval of an additional \$500,000 to pay for the Access License Agreement from the City of San Leandro. Table 1 summarizes the project budget authorizations and current request.

**Table 1. Airport Perimeter Dike Improvements
Project Budget, by Category**

	Previously Approved Budget¹	Additional Request	Total
Port Labor	\$3,341,000 ⁴	\$0	\$3,341,000 ⁴
Consultants (Design Services)	2,179,218 ⁴	0	2,179,218 ⁴
Consultants (Environmental Services)	690,000 ⁴	0	690,000 ⁴
Consultants (Construction Services) ³	2,307,000 ⁴	0	2,307,000 ⁴
Offsite Wetland Mitigation	1,638,000 ⁴	0	1,638,000 ⁴
Construction	14,248,607	0	14,248,607
Construction Change Order Contingency	1,348,000	0	1,348,000
Other ²	770,000 ⁴	500,000	1,270,000 ⁴
Total	\$26,521,825	\$500,000	\$27,021,825

¹ The current budget of \$26,521,825 was approved by the Board on September 12, 2019.

² Other includes MAPLA, permitting, security escorts, species mitigation, Access License, and OCIP costs.

³ Consultant construction services budget request includes engineering construction support,

construction management, materials inspection and testing.

⁴Staff may exceed the individual category costs noted in Table 1 if (i) the effort is needed and (ii) the actual sum of these category costs does not exceed the sum of these category costs as shown in Table 1.

There is no anticipated staffing impact associated with the requested authorization.

MARITIME AVIATION PROJECT LABOR AGREEMENT (MAPLA)

The Port of Oakland Maritime and Aviation Project Labor Agreement (MAPLA) does not apply because this action does not involve any labor activities or construction.

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 as the other party receiving payment is a governmental entity.

SUSTAINABILITY

This action is not directly subject to the Port's 2000 Sustainability Policy. Since securing these easements will enable the larger APD Project, it is connected to the overall goals of the APD Project that include preparing for flood events and sea level rise.

ENVIRONMENTAL

The Port, as lead agency for CEQA, prepared a draft IS/MND to evaluate potential impacts from the APD Project and circulated it for public review from September 16, 2015 to October 16, 2015. Comments were received from the City of San Leandro; Port staff met with City of San Leandro staff to resolve comments and included responses in the Final IS/MND. The Final IS/MND was adopted by the Board on December 17, 2015 (Ordinance No. 4359) and the Notice of Determination was filed with the Alameda County Clerk's Office on December 18, 2015. All subsequent Board

actions related to the APD Project, including easements and license agreements, are included in the Final IS/MND determination and no further environmental review is 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 items addressed in this report are not subject to the Port's Owner Controlled Insurance Program (OCIP) as they are not construction activities.

OPTIONS

The following are options for the Board's consideration:

- 1) Approve the actions as outlined in this agenda report. Doing so will enable the Airport Perimeter Dike Improvements (Phase 1B) project to be constructed, and provide flood protection measures that will meet standards required by FEMA to certify the dike. This is the recommended action.
- 2) Do not approve the actions as outlined in this agenda report. This is not recommended because it would delay completion of the Airport Perimeter Dike Improvements (Phase 1B) where the dike improvements are to be constructed on adjacent property and still leave OAK vulnerable to damage during a flood event.

RECOMMENDATION

Staff recommends the following actions:

- (1) Approve a project budget and spending authority of \$500,000 for the APD Improvements project;
- (2) Authorize the Executive Director to execute the Access License Agreement with the City of San Leandro;
- (3) Authorize the Executive Director to execute the Assignment of Easement with Harbor Bay Isle Associates