

## AGENDA REPORT

**Resolution:** Authorize Executive Director to Execute All Documents, including Other Transaction Agreement (OTA) and Statement of Joint Objectives (SOJO), to Participate in the Transportation Security Administration's (TSA's) Law Enforcement Officer Reimbursement Program (**Aviation**)

**MEETING DATE:** 1/23/2020

**AMOUNT:** \$1,029,300 (estimated maximum over 3-year program)  
Revenue

**PARTIES INVOLVED:** U.S. Department of Homeland Security  
Transportation Security Administration, Arlington, VA  
Contracting Officer: Kurt Allen

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

**APPROVED BY:** Danny Wan, Executive Director

**ACTION TYPE:** Resolution

### **EXECUTIVE SUMMARY**

The Transportation Security Administration's (TSA's) Law Enforcement Officer (LEO) Reimbursement Program provides funding to partially offset costs associated with airport operators providing dedicated law enforcement support to TSA's passenger screening operations. To receive funding under the TSA's LEO Reimbursement Program, the Port of Oakland must execute relevant program documents such as the TSA's Other Transaction Agreement (OTA) and Statement of Joint Objectives (SOJO). This Agenda Report requests that the Board of Port Commissioners authorize the Executive Director to execute these program documents. The TSA has stated that the term of its LEO Reimbursement Program will be 3 years (extendable at TSA's discretion), and Port staff estimates that the Port may receive up to \$343,100 annually in funding (or \$1,029,300 over the 3-year program).

### **BACKGROUND**

On October 3, 2019, the Transportation Security Administration (TSA) issued a solicitation for airport operators to apply for partial reimbursement of costs associated with providing dedicated Law Enforcement Officer (LEO) support to TSA's passenger screening operations for a period of three years starting April 1, 2020 (which may be extended at TSA's discretion), depending on the availability of federal funding. The Port has participated in the TSA's LEO Reimbursement Program since October 2012, and the current program is set to expire March

31, 2020. On November 8, 2019, Port staff submitted an application / proposal to TSA to be considered for the new LEO Reimbursement Program effective April 1, 2020.

The purpose of TSA's LEO Reimbursement Program is to partially offset the cost to airport operators, such as the Port, of providing dedicated LEO support to TSA's passenger screening operations (i.e., the TSA security checkpoints). At Oakland International Airport (OAK), the Port contracts with the Alameda County Sheriff's Office (ACSO) to provide all law enforcement services at the Airport, including support to TSA's passenger screening operations, as required by 49 CFR 1542.215, 49 CFR 1542.217, various TSA Security Directives issued to airport operators, and OAK's TSA-approved Airport Security Program.

## **ANALYSIS**

Staff estimates that the Port currently spends approximately \$1,887,000 per fiscal year in ACSO resources directly supporting the TSA's passenger screening operations at OAK (at \$110 per hour per sworn ACSO deputy, on average, including salary/wages, healthcare, retirement, and other benefits). This represents about 9% of the Airport's total law enforcement services budget of \$20.3 million in Port Fiscal Year 2020. Although TSA's solicitation for the LEO Reimbursement Program does not specify how much partial reimbursement TSA is planning to provide to offset this cost to the Port, the existing program reimburses LEO costs at \$20 per hour, or about 18% of the actual cost for the Port to provide these LEO services to TSA. The exact amount of the reimbursement may vary from federal fiscal year to federal fiscal year depending on TSA's budget priorities and constraints.

For the Port to receive partial reimbursement under the TSA's LEO Reimbursement Program, it will be required to execute an Other Transaction Agreement (OTA), Statement of Joint Objectives (SOJO), and other program documents with TSA. Airports selected to participate in TSA's LEO Reimbursement Program must agree to the following types of conditions:

- Maintain LEO presence and response that is adequate to support TSA in screening of passengers and accessible property, including (1) providing for the safety and security of persons and property against acts of criminal violence or aircraft piracy, (2) assisting in preventing introduction of prohibited items into the Sterile Area of the Airport and onto aircraft, and (3) dealing with disorderly persons.
- Follow TSA-approved LEO response standards to the TSA security checkpoints in accordance with regulations and the TSA-approved Airport Security Program.
- Provide incident reports, police reports, and other information dealing with aviation security and/or each LEO response to security incidents at OAK in accordance with federal, state, and local statutes.
- Assist with verification of LEO credentials at the TSA security checkpoints.
- Cooperate fully with regulatory investigations.

The TSA's proposed OTA/SOJO also provides sufficient operational flexibility to the Port's Aviation Security Manager, the TSA's Federal Security Director, and ACSO leadership to ensure adequate LEO coverage to the entire Airport.

If the Port is selected to continue to participate in TSA's LEO Reimbursement Program for the next three years (starting in April 2020) and possibly beyond, the partial reimbursement of costs the Port is already incurring and will incur defrays the amount the Port spends on ACSO law enforcement resources each fiscal year. Therefore, Port staff recommends that the Board authorize the Executive Director to execute the LEO Reimbursement Program OTA, SOJO, and other program documents so that, if selected, the Port may receive partial reimbursement for these LEO expenses.

### **BUDGET & STAFFING**

Entering into an Other Transaction Agreement (OTA) / Statement of Joint Objectives (SOJO) with TSA for the Law Enforcement Officer (LEO) Reimbursement Program will provide the Port with partial reimbursement funding for up to 3 years, starting in April 2020, and possibly beyond to help defray the cost of the Port providing law enforcement support to the TSA's passenger screening operations at OAK. The Port's overall budget for law enforcement services at OAK for Port Fiscal Year 2020 is \$20.3 million. Out of this \$20.3 million, staff estimates the Port spends approximately \$1,887,000 per year to directly and indirectly support TSA's passengers screening operations. Although TSA has not finalized the reimbursement rate and funding may vary from federal fiscal year to federal fiscal year as noted above, staff estimates that TSA may partially reimburse the Port for its costs up to \$343,100 per year or \$1,029,300 over the course of the proposed 3-year LEO Reimbursement Program (i.e., about 18% of the Port's costs).

The proposed action does not have any staffing impact.

### **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>

- Grow Net Revenue
- 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, do not

apply to this agreement because the Transportation Security Administration (TSA) is a government agency.

## **SUSTAINABILITY**

Port staff 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.

## **ENVIRONMENTAL**

CEQA Determination: This action was reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA). The CEQA Guidelines, Section 15061(b)(3) ("common sense exemption") states that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Executing documents to participate in the TSA's LEO Reimbursement Program will not have a significant effect on the environment and therefore is not a project under CEQA. No further environmental 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)**

This action is not subject to the Port's Owner Controlled Insurance Program (OCIP) as it is not a capital improvement construction project.

## **OPTIONS**

1. Authorize the Executive Director to execute Law Enforcement Officer (LEO) Reimbursement Program documents with TSA, including an Other Transaction Agreement (OTA) and Statement of Joint Objectives (SOJO), to allow the Port to receive partial reimbursement of costs it expends to support the TSA passenger screening operations at OAK. Reimbursement is estimated at \$343,100 per year or \$1,029,300 over the course of the proposed 3-year LEO Reimbursement Program (i.e., about 18% of the Port's costs). This is the recommended action.
2. Do not authorize the Executive Director to execute LEO Reimbursement Program documents with TSA. With this option, the Port will not receive partial reimbursement of its costs to support the TSA passenger screening operations, and the Port and its tenants will bear the full cost of providing these required LEO services.

## **RECOMMENDATION**

Adopt a resolution authorizing the Executive Director to execute all necessary Law Enforcement Officer (LEO) Reimbursement Program documents with the Transportation Security Administration (TSA), including the TSA's Other Transaction Agreement (OTA) and Statement of Joint Objectives (SOJO), for three years (starting April 2020) and possibly beyond for an estimated partial reimbursement of \$343,100 per year (\$1,029,300 over the course of the proposed 3-year LEO Reimbursement Program). All program documents to be executed by the Executive Director are subject to approval as to form and legality by the Port Attorney.