

## AGENDA REPORT

**Ordinance:** Approve *Other Transaction Agreement HSTS01-15-H-CKP050 Modification Number P00006* with the United States of America, Acting Through the Transportation Security Administration, Eliminating Monthly Payment of \$9,678.90 to the Port of Oakland for Custodial Services in the Transportation Security Administration Security Checkpoints at Oakland International Airport. **(Aviation)**

**MEETING DATE:** 9/24/2020

**AMOUNT:** \$9,678.90 (Monthly) or \$116,146.80 (Annually) Revenue

**PARTIES INVOLVED:** United States of America, Washington, D.C.  
Isabel Roman-Cogswell, Branch Chief

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

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

**ACTION TYPE:** Ordinance

### **EXECUTIVE SUMMARY**

This action would approve *Other Transaction Agreement HSTS01-15-CKP050 Modification P00006* (“Agreement”) which would eliminate Transportation Security Administration (“TSA”) reimbursement to the Port of Oakland (“Port”) for custodial services utilized in the checkpoint and bag screening areas at Oakland International Airport (“OAK”), resulting in the elimination of \$9,679 in revenue per month.

### **BACKGROUND**

At its meeting of November 4, 2003, by Resolution No. 03300 the Board authorized execution of *Utility and Janitorial Agreement* with the TSA providing for the reimbursement of custodial and electrical utility services utilized in the operation of security checkpoints and baggage screening operations in Terminals 1 and 2. The term of the *Utility and Janitorial Agreement* commenced on October 1, 2007 and was originally set to expire on September 30, 2012. At its meeting of November 1, 2012, by Ordinance No. 4208 the Board authorized the *Second Amendment to Utility and Janitorial Agreement* which provided for an upward adjustment of the TSA screening footprint and extended the term of the *Utility and Janitorial Agreement* through September 30, 2022. In 2015 the TSA unilaterally decided to transition nationwide from unique reimbursement agreements with individual airports to a TSA generated form of agreement titled *Other Transaction Agreement*. At its meeting of April 23, 2015, by Ordinance No. 4322 the Board authorized execution of *Other Transaction Agreement* with the TSA which continued to provide for the reimbursement of custodial and electrical utility services utilized in the operation of security checkpoints and baggage screening operations. The *Other Transaction Agreement*

provided for up to ten (10) one (1) year terms which automatically renewed so long as federal law required the TSA to perform screening functions at OAK. Under the *Other Transaction Agreement*, the TSA pays the Port a fixed amount of \$9,678.90 per month for custodial services, plus variable metered electrical charges.

## **ANALYSIS**

Pursuant to the terms of the Aviation and Transportation Security Act of 2001, the TSA is required to deploy federal security screeners, managers, and federal law enforcement officers to conduct screening of all passengers, property, baggage, and cargo and to ensure perimeter access security at all airports. In order to carry out this mandate, it is necessary for the TSA to use certain airport space and facilities defined under federal law as “necessary security checkpoints.” Pursuant to federal statute, airports are required to provide necessary security checkpoint space at no rent to the TSA. Although the statute does not obligate the TSA to reimburse airports for the cost of janitorial expenses which airports may incur in providing the necessary security checkpoint space, the TSA has historically sought and received funding for this purpose. Despite industry efforts such as ACI-NA lobbying, for FY20 the TSA did not request, and Congress did not appropriate, funds for reimbursement of checkpoint janitorial services. Every airport nationwide is subject to this decision by Congress and the TSA. Janitorial services are still required in the checkpoint areas and those costs will be included in general cleaning of the terminal areas as provided for by Airline Rates & Charges.

The *Agreement* modifies the *Other Transaction Agreement* to eliminate monthly payment of \$9,678.90 to the Port for providing custodial services in the security checkpoints. The TSA will continue to pay variable metered electrical charges.

## **BUDGET & STAFFING**

The proposed action will eliminate \$9,678.90 in budgeted monthly revenue beginning July 1, 2020 which equates to \$116,146.80 annualized. The cost of providing this service will be included in the calculation of Terminal Cost Center Rates & Charges in future years. The action will 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>

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, do not apply to this agreement because the TSA is a government agency.

## **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, purchasing of equipment, or operations that presents sustainability opportunities, including adaptation to sea level rise.

## **ENVIRONMENTAL**

The Port has determined that this project is categorically exempt from the California Environmental Quality Act (CEQA) Guidelines pursuant to Section 15301, Existing Facilities. CEQA does not apply to the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment or topographical features, involving negligible or no expansion of existing or former use.

## **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. Adopt an Ordinance to approve *Other Transaction Agreement HSTS01-15-H-CKP050 Modification Number P00006* with the United States of America, acting through the Transportation Security Administration, eliminating monthly payment of \$9,678.90 to the Port of Oakland for janitorial services in the Transportation Security Administration security checkpoints at Oakland International Airport. This is the recommended action;
2. Do not adopt an Ordinance to approve *Other Transaction Agreement HSTS01-15-H-CKP050 Modification Number P00006* with the United States of America, acting through the Transportation Security Administration; however, failure to adopt an ordinance will still not result in the TSA reimbursing the Port for custodial services; or,
3. Do not adopt an Ordinance to approve *Other Transaction Agreement HSTS01-15-H-CKP050 Modification Number P00006* but recommend different terms and conditions.

## **RECOMMENDATION**

Adopt an Ordinance to approve *Other Transaction Agreement HSTS01-15-H-CKP050 Modification Number P00006* with the United States of America, acting through the Transportation Security Administration, eliminating monthly payment of \$9,678.90 to the Port of Oakland for custodial services in the Transportation Security Administration security checkpoints at Oakland International Airport, subject to approval as to form and legality.