

AGENDA REPORT

Resolution: Authorize the Executive Director to Enter into a Professional Services Agreement with AECOM Technical Services, Inc., to Provide Environmental Planning and Technical Support Services for the Oakland Harbor Turning Basins Widening Feasibility Study in the Amount Not to Exceed \$3,800,000 and Approve an Increase of \$2,000,000 to the Project Budget Resulting in a Total Project Budget of \$5,000,000. **(Maritime)**

MEETING DATE: 1/28/2021

AMOUNT: \$3,800,000 Contract Authority (FY21-FY24)
Operating Expense

\$5,000,000 Project Budget (FY21-FY24)
(Increase of \$2,000,000)
Operating Expense

PARTIES INVOLVED: AECOM Technical Services, Inc., Oakland, CA
Craig Holland, Vice President

SUBMITTED BY: Bryan Brandes, Maritime Director

APPROVED BY: Danny Wan, Executive Director

ACTION TYPE: Resolution

EXECUTIVE SUMMARY

The United States Army Corps of Engineers ("USACE") and Port of Oakland ("Port") have partnered to evaluate the feasibility ("Feasibility Study") of widening both the Inner and Outer Harbor turning basins of the Oakland Harbor ("Project"). The Port is the Lead Agency under the California Environmental Quality Act and is required to review the potential impacts to the environment from the Project. Port staff seeks authorization from the Board of Port Commissioners ("Board") to enter into a professional services agreement with AECOM to provide environmental planning and technical support services in an amount not to exceed \$3,800,000. Staff also seeks an increase of approximately \$2,000,000 for a total Project budget of \$5,000,000.

BACKGROUND

To remain competitive and capable of servicing the world's global container vessel fleet, the Port, USACE, and Port tenants have and continue to make significant investments in the Port's maritime facilities ("Seaport" or "Oakland Seaport"). Examples of these investments include the deepening and widening of navigation channels, waterways, and berths; the modernization

of marine terminals; up-sizing cargo handling equipment; increasing rail trackage; and developing new warehousing facilities that support trade and commerce.

The Seaport is served by the Oakland Harbor, which generally consists of the Entrance Channel, the Outer Harbor and its Outer Harbor Turning Basin (“OHTB”), and the Inner Harbor and its Inner Harbor Turning Basin (“IHTB”). The Oakland Harbor is a federal-sponsored channel, which means that the navigation features (depth and width of channels/turning basins) are maintained (payment and performance) by the USACE, via direct appropriations from the federal government.

The Oakland Harbor was last improved in 2009 to provide a water depth of 50 feet and expanded turning basins (“-50 Foot Project”). Currently, the Port routinely, and with growing frequency receives cargo vessels that exceed the maximum vessel design of the -50 Foot Project. As previously reported to the Board, expanding the IHTB and OHTB to accommodate vessels with capacities greater than 14,000 TEUs (ultra large container vessels (“ULCVs”)), is another necessary investment for the Port to remain competitive.

The following key activities have occurred to date in support of the Project:

- In April 2017, the Port submitted a Letter of Intent (“LOI”) to the USACE raising awareness to the constraints of handling ULCVs at the Seaport. The LOI also confirmed the Port’s desire and commitment, as a non-Federal sponsor (“NFS”), to participate and provide the monetary contribution in accordance with a Feasibility Cost Sharing Agreement (“FCSA”) to explore the feasibility of expanding the IHTB and OHTB.
- In 2018, the USACE completed an Initial Appraisal Report (“IAR”) which determined further feasibility-level studies are warranted to review changed conditions in the Port (i.e., increased vessel size).
- On May 28, 2020, the Board approved a FCSA with the USACE to continue with feasibility level studies for potentially widening the turning basins. As part of that approval, the Board authorized a \$1.5 million cost share in the form of (a) direct cash payments, and (b) in-kind contributions. In-kind contributions are studies and analyses that are integral to the Feasibility Study and best handled by the Port, instead of the USACE, given Port knowledge and/or expertise.
- The Feasibility Study for potential widening of the IHTB and OHTB formally commenced in July 2020. The Port is supporting the USACE and contributing 50% (or \$1.5 million) to the \$3.0 million Feasibility Study cost. This total does not include costs to perform CEQA analyses.
 - The USACE is to follow the Federal 3x3x3 Rule (“Rule”) in preparing the feasibility study. This Rule provides that USACE (i) complete a feasibility study in less than 3 years, (ii) spend no more than \$3 million¹ in aggregate for both

¹ This \$3.0 million total project cost does not include CEQA environmental review costs.

Federal and NFS cost shares, and (3) include three vertical levels of USACE review.

- The Feasibility Study is an iterative planning process which includes evaluating potential impacts to the environment from the Project. The Port, as Lead Agency for CEQA, will review potential impacts to resource areas such as air quality, water quality, biology, noise, and transportation. To comply with CEQA, the Port will prepare an Environmental Impact Report (“EIR”). Performing a CEQA environmental review and certifying the EIR by completion of the Feasibility Study is required to allow the Board to take discretionary actions that would enable design and construction of the Project.
 - In May 2020, staff estimated total Project costs at \$3.0 million (\$1.5 million for in-kind contributions/cash payments to the USACE and \$1.5 million for CEQA). The estimate cost to complete CEQA has since been revised upward to \$2.3 million.
 - The USACE is required to conduct the Federal environmental review counterpart to CEQA, known as the National Environmental Policy Act (“NEPA”). The NEPA and CEQA analysis are conducted separately. However, certain components of the CEQA analysis will be performed as in-kind contributions by the Port and will also inform the NEPA analysis.

In addition to the \$3.0 million Project cost estimate from May 2020, an additional \$2.0 million is requested for the following items:

- \$500,000 for preparation of the EIR. Total EIR cost is anticipated to be \$2.3 million. However, approximately \$300,000 of the Port’s CEQA work will be considered in kind work and paid out of the previously approved \$1.5 million Port obligation of in kind contributions and direct cash payments to USACE pursuant to the FCSA.
- \$1.5 million of contingency in the event additional sediment/soil sampling and testing, engineering technical support, economic analysis review and support, or additional environmental analyses is needed.

ANALYSIS

RFQ Process for PSA

In April 2020, Port Staff issued a Request for Qualifications (“RFQ”) to identify a consultant team that has experience and ability to perform technical services and studies to support the feasibility study and to conduct a CEQA review for the Project. The RFQ is accessible online at <https://www.portofoakland.com/wp-content/uploads/RFQ-19-20.11-Technical-Consulting-Services-for-Turning-Basins-USACE-Feasability-Study.pdf>.

Three respondents submitted qualifications in response to the RFQ. To evaluate the proposals received, the Port established a 7-person Evaluation Committee (the “Committee”) comprised of staff from the Maritime, Engineering, Environmental, and Social Responsibility Departments. The evaluation resulted in the following ranking:

Ranking	Proposer	Location	Certified LIA/LBA*
1	AECOM Technical Services, Inc.	Oakland, CA	Yes
2	Moffatt & Nichol	Oakland, CA	Yes
3	W.F. Baird & Associates Ltd.	San Francisco, CA	No

*LIA – Local Impact Area: Oakland, San Leandro and Emeryville; LBA – Local Business Area – Alameda and Contra Costa Counties

The Committee evaluated each proposal based on criteria set forth in the RFQ, and as listed below:

Item	Criteria	Weights
1	Adherence to Port Policy and Other Requirements, Debarment Statement, Conflict Disclosure and Minimum Qualifications	Pass/Fail
2	Overall Experience and Expertise of the Consultant and Subconsultants	20%
3	Personnel and Team Organization	20%
4	Referenced Projects	20%
5	Project Approach	25%
6	Non-Discrimination and Small Local Business Utilization Policy	15%
	Total	100%

Ratings were assigned to each of the six criteria noted above. All three qualification submissions were complete and qualified for a Committee review and subsequent oral presentation. Each proposer ranked AECOM higher than Moffatt & Nichol and W.F. Baird & Associates. AECOM demonstrated the strongest organization and team structure, most relevant project experience, including its recent participation in USACE-led feasibility studies, experience with complex federal deep-draft vessel waterway improvement projects, and a clear and delineated process for performing a CEQA environmental review. AECOM also received the most points from the Non-Discrimination and Small Local Business Utilization Policy (NDSLBP) component. In summary, all three qualification submissions were competitive. However, AECOM's stronger team organization and qualifications were more responsive to the RFQ.

Proposed PSA with AECOM

Port Cost Share: In-Kind Contributions

The Port and the USACE have reached agreement for the Port to provide the following in-kind contributions, totaling approximately \$300,000 for environmental technical studies that inform both CEQA and NEPA environmental reviews and for historical environmental data research and review. Table 1 (below) provides a detailed summary of anticipated amounts and descriptions of in-kind contributions. This work will be performed by AECOM, but is paid as part of the Port's \$1.5 million contribution to the FCSA reducing the request for additional funding to complete CEQA review by \$300,000. The remaining balance of the Port's \$1.5 million FCSA obligation, will be direct cash payments totaling \$1.2 million to the USACE.

Table 1. In-Kind Contributions

Task	Amount
Sediment Soil & Groundwater Research	\$5,000
Dredged Material Disposal Site Research	\$5,000
Environmental Technical Studies (CEQA & NEPA)	\$250,000
Environmental Technical Studies (NEPA)	\$40,000
Total	\$300,000

Port CEQA Review

CEQA review (including in kind contribution work) will be performed by AECOM and is estimated at approximately \$2.3 million. This is \$800,000 more than the previous estimate of \$1.5 million provided to the Board in May 2020. As previously mentioned, the \$800,000 increase is offset by the \$300,000 of CEQA tasks that will be considered in kind contributions. The estimate to perform CEQA review has increased because (1) the USACE has elected to perform analyses that Staff had planned to use for CEQA, namely hydrology and hydraulic modeling and sediment and soil sampling, in a later phase (i.e., Preliminary Engineering & Design) of this Project's planning effort, and scope to perform these analyses for CEQA during the feasibility phase was newly added to the CEQA cost presented here; (2) various regulatory agencies, in meetings with the USACE and Port Staff, have identified expectations for the environmental review that were not previously known; and (3) informed by items 1 and 2, a detailed scope was developed, which resulted in higher costs than originally estimated.

AECOM Scope of Work

AECOM will assist the Port with providing (1) in-kind contributions for Feasibility Study (Table 1); (2) CEQA review; and (3) general technical support. Port Staff and AECOM have developed a detailed scope totaling \$3.8 million, which includes approximately \$1.5 million for contingency tasks to support the Port with engineering, economic, and additional environmental analyses. Contingency tasks cannot proceed without Port approval, and for contingency tasks that exceed \$50,000 approval of the Executive Director will be required. Table 2 (below) provides a detailed summary of compensation under the PSA. The total duration of the proposed PSA is three years which includes a 6-month extension if authorized by the Executive Director.

Table 2. Total PSA Budget

Task	Amount
Core	\$2,300,000
Contingency	\$1,500,000
Total	\$3,800,000

The contingency of \$1,500,000 includes \$750,000 for sediment/soil sampling and testing, \$300,000 for engineering technical support, \$75,000 for economics support, and \$375,000 for

additional environmental analyses, if required. The schedule for the Feasibility Study is controlled by the USACE and it is essential the Port be able to quickly perform additional reviews and analyses, as the need arises, to ensure the Feasibility Study supports the goals of the Port. The contingency provides the Port with the ability to respond quickly.

It is anticipated that AECOM will commence work in February 2021. The USACE has tentatively scheduled to release a draft integrated Feasibility Study report, which includes a NEPA analysis, in Q4 2021. To meet this schedule, it is important the Port commence work on in-kind contributions with AECOM no later than February 2021. The Port anticipates releasing the draft EIR under CEQA in mid-2022. Entering into a PSA with AECOM, performing in-kind contributions for the Feasibility Study, and completing CEQA review does not commit the Port or the USACE to the design or construction of any IHTB/OHTB expansion.

BUDGET & STAFFING

On May 28, 2020 Staff provided the Board an estimated Project budget of \$3.0 million, which included the Port's \$1.5 million cost share for the Feasibility Study and an estimated \$1.5 million for CEQA. The revised Project budget is now estimated at \$5.0 million. This increase is due to additional CEQA costs and additional technical support previously discussed, and incorporates the \$300,000 in kind contribution from the FCSA to the CEQA component of the Port's work.

Table 3. Prior and Current Estimated Project Budget

	May 2020	Current
Feasibility Study Cost Share (Cash	\$1,500,000	\$1,200,000
Feasibility Study Cost Share (In Kind – CEQA)	\$0	\$300,000
CEQA	\$1,500,000	\$2,000,000
Contingency (Additional Technical Support)	\$0	\$1,500,000
Total	\$3,000,000	\$5,000,000

The Port's proposed 5-Year Operating Budget (FY21 through FY25) includes \$3.0 million for (a) the Port's Feasibility Study cost share of \$1.5 million; (b) the Port's responsibility to perform a CEQA planning review; and (c) general technical support.

The adopted FY21 Operating Expense Budget includes \$500,000 for the Project, which will cover expected expenditures in FY21. Future operating expense budgets will include funding for the forecasted expenditures in FY22, FY23, and FY24. Table 3 summarizes Staff's current estimate of annual expenses related to the Port's commitments and environmental review requirements for the Feasibility Study through completion.

Table 3. Estimated Expenditure Schedule

	FY21	FY22	FY23	FY24	Total
Port's Feasibility Study Cost Share (cash)	\$100,000	\$500,000	\$400,000	\$200,000	\$1,200,000
Port's Feasibility Study Cost Share (in-kind) – AECOM contract	\$0	\$200,000	\$100,000	\$0	\$300,000²
CEQA Review – AECOM contract	\$300,000	\$1,000,000	\$600,000	\$100,000	\$2,000,000
Additional Technical Support – AECOM contract	\$100,000	\$1,000,000	\$200,000	\$200,000	\$1,500,000
Total	\$500,000	\$2,700,000	\$1,300,000	\$500,000	\$5,000,000

There are no immediate staffing impacts anticipated by the proposed action, however as the Project advances, additional staff resources may be required.

MARITIME AVIATION PROJECT LABOR AGREEMENT (“MAPLA”)

The Port of Oakland Maritime and Aviation Project Labor Agreement (“MAPLA”) does not apply because this contract is for professional services that are not within the craft jurisdiction of the unions signatory to the MAPLA.

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>

- Improve Customer Service
- Modernize and Maintain Infrastructure

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, may apply to this agreement because the agreement is for a value greater than \$50,000. However, the condition of the service provider employing 21 or more employees must also be met for the service provider to comply with the living wage requirements and all of its obligations.

SUSTAINABILITY

² The in-kind contributions are for CEQA, and therefore result in a total CEQA cost of \$2.3 million as discussed in this Agenda Report.

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. The consultant will review and recommend sustainability opportunities that could be included with the Project during the environmental review process.

ENVIRONMENTAL

The action to enter into a professional service agreement with AECOM was reviewed in accordance with the requirements of the California Environmental Quality Act ("CEQA"). The hiring of a consultant to conduct environmental and technical studies is not a project as defined in the CEQA Guidelines under Public Resources Code Section 21065 because CEQA defines projects as activities that have the potential for causing significant effect on the environment. Further, executing a professional service agreement with AECOM to conduct environmental planning and perform technical studies for the Proposed Project does not commit the Port to a project and as such does not require environmental review under CEQA.

GENERAL PLAN

This project is for professional services and will not directly include any alteration of property. Development projects that result from these professional services will be subject to separate findings of conformity with the City of Oakland General Plan in accordance with Section 727 of the Charter.

OWNER-CONTROLLED INSURANCE PROGRAM (OCIP)

Professional service agreements are not subject to the Port's Owner Controlled Insurance Program ("OCIP") as professional services are not construction activities.

OPTIONS

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

- 1) Adopt a resolution authorizing the Executive Director to enter into a PSA with AECOM to provide environmental planning and technical support services for the Feasibility Study and increase total Project budget as described in this Report. **This is the recommended option.**
- 2) Do not authorize the Executive Director to enter into a PSA with AECOM to provide environmental planning and technical support services for the Feasibility Study and do not authorize an increase to the total Project budget. This will effectively prevent Port staff from supporting the Feasibility Study and performing CEQA review.
- 3) Do not authorize the Executive Director to enter into a PSA with AECOM nor increase total Project budget, direct staff to terminate the current procurement, and direct staff to

pursue a new procurement. This would significantly delay the Port's ability to support the Feasibility Study and perform CEQA, which would require the USACE to perform work with very limited Port involvement and delay completion of the Feasibility Study.

RECOMMENDATION

Staff recommends that the Board adopt a resolution authorizing the Executive Director to enter into a Professional Services Agreement with AECOM Technical Services, Inc., to provide environmental planning and technical support services for the Oakland Harbor Turning Basins Widening Feasibility Study in the amount not to exceed \$3,800,000 and approve an Increase of \$2,000,000 to the Project budget resulting in a total Project budget of \$5,000,000.