

AGENDA REPORT

Resolution: **Ordinance:** Authorize the Executive Director to Execute a No-Cost Access Agreement with the City of Oakland for the Port to Access, Operate, and Maintain Port Utility Infrastructure on City of Oakland Property. **(Maritime)**

MEETING DATE: 09/30/2021

AMOUNT: No Cost

PARTIES INVOLVED: City of Oakland
Edward Reiskin, City Administrator

SUBMITTED BY: Bryan Brandes, Maritime Director

APPROVED BY: Danny Wan, Executive Director

ACTION TYPE: Resolution

EXECUTIVE SUMMARY

Staff is requesting authorization for the Executive Director to enter into an access agreement with the City of Oakland (City) to memorialize the Port's rights related to a segment of the Port's electrical distribution network located on City property.

BACKGROUND

The Port is an electrical utility provider and owns/maintains electrical distribution lines to serve its customers. The Port's electrical infrastructure occupies both Port and City property. One segment, commonly known as Circuit 2, extends to the Outer Harbor and occupies portions of the City's Oakland Army Base (OAB) redevelopment area and the Port's Berth 9 wharf area (Exhibit A).

Circuit 2 was transferred to the Port from the Federal Government during the closure of the Oakland Army Base in the early 2000s. The transfer of OAB property to the Port and City established new property boundaries; as a result, Circuit 2 occupies both Port and City property. Circuit 2 served both Port and City tenants until late 2019 when all the City's tenants were transferred to Pacific Gas & Electric (PG&E) electrical service.

In mid-2020, the City requested the Port relocate Circuit 2 to accommodate the City's redevelopment of the OAB. Thereafter, City and Port staff negotiated and agreed on a new alignment for Circuit 2 on City property which removed conflict with the City's redevelopment and allowed the Port to continue serving Port tenants. On August 26, 2020 the Port and City formalized this agreement by way of entering into a Temporary License Agreement (License Agreement) for the Port to relocate a segment of Circuit 2 to the Port and City property boundary

near Berth 9, defined as a License Area (Exhibit B). In early 2021, Port Staff completed all work required pursuant to the License Agreement. As further required under the License Agreement, the Port and City have negotiated a memorandum of agreement (Access Agreement) for accessing, operating, and maintaining the segment of Circuit 2 within the License Area. The License Agreement expired July 31, 2021 and Port and City staff now desire to memorialize the Port's ongoing rights to access, operate, and maintain the relocated portion of Circuit 2 that occupies the License Area on City property.

ANALYSIS

As noted above, the Port has a portion of its Circuit 2 electrical infrastructure on City property. The Port requires regular and emergency access to inspect, maintain and repair this electrical infrastructure. The proposed Access Agreement for the License Area defines the Port's rights to access, operate, and maintain the Circuit 2 segment on City property. Key terms of this Access Agreement are as follows:

- **Fee.** \$0
- **Term.** Perpetual, so long as the Port's Circuit 2 infrastructure remains on City Property and within the License Area.
- **Purpose.** To maintain, restore, repair, replace, and operate electrical Circuit 2 and related equipment in the License Area. If Port elects to underground electrical lines within the License Area, the Port and City will work in good faith to amend the Access Agreement.
- **Access.** License Area will be accessed from Port's Berth 9 property.
- **No Interference with Use.** City shall not unreasonably interfere with the use of the License Area.

BUDGET & STAFFING

The proposed action does not have any budget or staffing impact.

MARITIME AVIATION PROJECT LABOR AGREEMENT (MAPLA)

Authorizing the Executive Director to execute an Access Agreement for electrical infrastructure does 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: Modernize and Maintain Infrastructure
- Goal: Improve Customer Service

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 the requested action.

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 proposal to authorize the Executive Director to execute an Access Agreement with the City to secure the Port's access to existing Port-owned electrical infrastructure on City property was reviewed in accordance with the requirements of the California Environmental Quality Act ("CEQA"). This action is categorically exempt from CEQA pursuant to CEQA Guidelines, Section 15301, which exempts 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

The proposed 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)

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

OPTIONS

The following are options for the Board's consideration:

- 1) Authorize the Executive Director to execute the proposed Access Agreement with the City, as described herein. **This is the recommended option.**
- 2) Do not authorize the Executive Director to execute the proposed Access Agreement with the City, as described herein. Under this option, the Port would not have access rights needed to maintain and operate a segment of the Port's electrical infrastructure located on City property, which would effectively result in terminating electrical service to certain Port customers.

RECOMMENDATION

Staff recommends the Board authorize the Executive Director to execute a no-cost Access Agreement with the City of Oakland for the Port to access, operate, and maintain Port utility infrastructure on City of Oakland property.

Exhibit A
Pre-Relocation Site Map
Property Boundary and Electrical Circuit 2 Alignment



Exhibit B
Post-Relocation Site Maps
New Alignment of Circuit 2



Exhibit B - Continued

License Area

