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Commissioner

AGENDA

SPECIAL Meeting of the Board of Port Commissioners
Tuesday, December 8, 2009 - 3:00 p.m.

ROLL CALL

Commissioner **Batarse**, Commissioner **Calloway**, Commissioner, **Gonzales**,
2nd Vice-President **Gordon**, 1st Vice President **Head**, Commissioner **Katzoff**,
and President **Uno**.

CLOSED SESSION (3:00 p.m.)

1. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION.** Significant exposure to litigation pursuant to subdivision (b) of Section 54956.9: 1 matter(s)
2. **CONFERENCE WITH REAL PROPERTY NEGOTIATOR.** Government Code Section 54956.8.

Property: #1 Airport Drive, South Airport
Negotiating Parties: Port of Oakland, Bay Area Rapid Transit
Agency Negotiator: Deborah Ale-Flint, Acting Director of Aviation
Under Negotiation: Terms and Conditions of the Development Agreement

3. **CONFERENCE WITH LABOR NEGOTIATORS**

Agency Negotiator: Austris Rungis
Employee Organizations: Western Council of Engineers

OPEN SESSION (4:00 p.m.)

ROLL CALL

Commissioner **Batarse**, Commissioner **Calloway**, Commissioner, **Gonzales**, 2nd Vice-President **Gordon**, 1st Vice President **Head**, Commissioner **Katzoff**, and President **Uno**.

CLOSED SESSION REPORT

The Port Attorney or Board Secretary will report on any final actions taken in Closed Session.

PRESIDENT'S REPORT

EXECUTIVE DIRECTOR'S REPORT

AVIATION

- A-1** Authorization To Enter Into Professional Services Agreement With URS Corporation In The Amount Of \$480,000 To Provide Aviation Environmental Consulting Services For The Airport Perimeter Dike Improvement Project.

COMMERCIAL REAL ESTATE

- C-1** Approval Of A License & Concession Agreement With The Association For The Preservation Of The Presidential Yacht Potomac For Various Port Premises For A Three Year Term With A Total Minimum Rent Of \$24,192.00 Per Year.

OPERATIONS

December 1st Executive Committee Report

APPROVAL OF THE MINUTES

Regular Meeting of December 1, 2009.

SUMMARY ITEMS

Action by the Board under "Summary Items" means that all matters listed below have been summarized, and are considered to be perfunctory in nature, and will be adopted by one motion and appropriate vote. Summary Items may be removed from the summary for discussion at the pleasure of the Board.

Ordinances For Second And Final Reading

- S-1** **Port Ordinance 4114** An Ordinance Amending Port Ordinance No. 3634 Relating To Identification Badges At Metropolitan Oakland International Airport.

- S-2** **Port Ordinance 4115** An Ordinance Approving And Authorizing The Execution Of A Development Agreement And A Use, Operation And Maintenance Agreement With The San Francisco Bay Area Rapid Transit District (“Bart”) For The Bart-Oakland International Airport Connector Project, Including Payment Of A Port Contribution From Certain Passenger Facility Charges In An Additional Amount Not To Exceed \$43.9 Million; Finding That The Bart Project Stabilization Agreement Meets The Requirements Of Port Resolution No. 09080; And Delegating Authority For Certain Future Actions To The Executive Director And Director Of Aviation.
- S-3** **Port Ordinance 4116** An Ordinance Amending Port Ordinance No. 867 To Create An Additional Position Of Deputy Port Attorney Iii And To Delete One Position Of Deputy Port Attorney Iv.
- S-4** **Port Ordinance 4117** Ordinance Amending Port Ordinance No. 867 Ratifying And Setting The Compensation Of Certain Employees Of The Port Department Belonging To Employee Representation Units H, J And M And Amending Section 1.0301 Providing Professional Development Benefits For Certain Officers And Employees.

OPEN FORUM

The Board will receive public comment on non-agenda items during this time. Please fill out a speaker card and present it to the Secretary of the Board.

ADJOURNMENT

PUBLIC PARTICIPATION

Disability Related Modifications

Any person who requires a disability-related modification or accommodation, including auxiliary aids or services, in order to participate in the meeting, may submit a written request, electronic request, or telephone request [via the California Relay Service (telephone) for the hearing impaired at (800) 735-2922], to the Secretary of the Board **no later than five working days** prior to the scheduled meeting date.

John Betterton, Secretary of the Board
530 Water Street, Oakland, CA 94607
jbetterton@portoakland.com
(510) 627-1696

Language & Interpretive Services

As a grantee of federal aid grant funds from the US Department of Transportation, the Port is responsible for ensuring equal access to its programs, services, and benefits. To request bilingual interpreters or materials in alternate formats, please contact the Director of Social Responsibility **no later than five working days** prior to the scheduled meeting date.

Diann Castleberry, Director of Social Responsibility
530 Water Street, Oakland, CA 94607
dcastleberry@portoakland.com
(510) 627-1302

Scented Products

Please refrain from wearing scented products to this meeting so attendees who experience chemical sensitivities may attend.

To Speak on an Agenda Item

You may speak on any item appearing on the Agenda. Please fill out a Speaker's Card and give it to the Board Secretary before the start of the meeting. All speakers will be allotted a minimum of one minute.

Agenda & Related Materials

Should you have questions or concerns regarding this Agenda, or wish to review any of the Agenda Related Materials, please contact the Board Secretary, John Betterton, at (510) 627-1696, or visit our web page at www.portoakland.com

To receive Port Agendas and Agenda Related Materials by email, please email your request to jbetterton@portoakland.com

determine whether the perimeter dike met current FEMA flood standards; evaluate the current conditions of the fuel pipelines located in the perimeter dike; assess the vulnerability of the perimeter dike to seismic events and a 55" rise in sea level predicted by the year 2100; and perform 30% of the engineering design. URS Corporation has conducted studies and performed analysis for improving the dike.

In order to construct the dike improvements, an environmental assessment, pursuant to the California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA), must be performed and regulatory permits must be obtained. The key issues informing the current project schedule (described below) are 1) remedying the FEMA de-accreditation of the dike, and 2) the risk that federal funds for construction of improvements would not be available to the Port absent a completed environmental review.

The scope of the project subject to environmental review includes the recommended improvements to address 1) FEMA standards, 2) current conditions of fuel pipelines, 3) seismic vulnerability, 4) sea-level rise, and 5) other related construction activities and environmental effects. Specifically, the environmental assessment needs to address both CEQA and NEPA requirements including analyzing any impacts to endangered species, developing a wetlands mitigation strategy, and assessing potential greenhouse gas emissions. Furthermore, public access and other mitigation measures may also be required by regulatory agencies.

Project Schedule

On June 23, 2009, FEMA informed the Port of Oakland (Port) that it would be updating its Flood Insurance Rate Maps (Maps) in approximately 18 to 24 months (December 2010 – June 2011) to include only flood protection systems that complied with FEMA standards. The current project schedule, based upon URS Corporation's recommendation, provides for completion of improvements by 2013. Of these improvements, URS Corporation recommends installing a stability berm on the landside of the dike to address FEMA standards. Thus, the current project schedule estimates the FEMA improvements to be completed by early 2012.

Recommended New Contract

Port staff have already undergone a consultant selection process for aviation environmental professional services (described below). Due to URS Corporation's rank (#1) and specific expertise in aviation environmental clearance, staff recommends execution of a separate contract with URS Corporation.

ANALYSIS

Consultant Selection and Recommendation

The Port is subject to a variety of federal, state and regional environmental laws and regulations, which require the Port to prepare environmental documentation and secure regulatory permits ("entitlements") because it is responsible for, and is a proponent of, a wide range of development and operational activities. As the Lead Agency under CEQA, the Port is subject to regulatory oversight by federal, state and regional agencies with permitting authority. The Port of Oakland Environmental Programs and Planning (EP&P) Division conducts the environmental entitlement process for Port projects. In addition, EP&P provides broad environmental planning services, such as technically specialized studies for the Port's Capital Improvement Program (CIP) and operations. Environmental planning consulting services are often required to supplement staff to complete these activities.

In May 2009, EP&P solicited a request for qualifications (RFQ) to provide aviation environmental professional services. The RFQ was published on the Port's website, the Airports Council International-North America website, and in the "Aviation Emissions Report" on May 7, 2009. The deadline for receiving Statements of Qualifications (SOQ) was June 22, 2009. An Evaluation Committee was formed and included Port staff members from EP&P and the Social Responsibility Divisions (SRD). On July 2, 2009, the Evaluation Committee convened to review and evaluate SOQ submittals from eight consulting firms.

On July 29 and 30, 2009, seven consulting firms participated in an interview process. The Evaluation Committee rated the firms based upon the designated project manager's experience and each firm's team experience and qualifications. The seven (7) firms were ranked in the following order:

1. URS Corporation
2. Landrum & Brown
3. HNTB Corporation
4. CH2MHill
5. Ricondo & Associates
6. ESA Airports
7. CDM

SRD Review of Consultant Selection

Projects that are federally funded are subject to the federal Disadvantaged Business Enterprise (DBE) requirements. When the projects are not federally funded, DBE requirements do not apply and the Port applies its Non-Discrimination Small and Local Business Utilization Policy (NDSLBU) as another way to "level the playing field" in Port public works projects.

The consultant services were bid as specialized "on-call" services with the expectation that some specific technical service orders (TSOs) and related projects might include federal assistance thereby requiring DBE application. However, the engineering study, design and environmental impact assessment and permits (Phase 1) for the airport perimeter dike improvement project are funded by Passenger Facility Charge (PFC) funds, which are not considered federal assisted funds. Therefore, the consultant services for Phase 1 of the airport perimeter dike improvement project are not subject to DBE requirements, thus allowing the NDSLBP application.

URS Corporation is a Port-certified business within the Local Impact Area (LIA), specifically Oakland, California. If the contract had been bid under the NDSLBP, URS Corporation would have received the maximum points possible as local business, as well as any other points for sub-consultants. The Port's NDSLBP applies to this contract.

Consequences if the Board Does Not Authorize Airport Perimeter Dike Improvement Project

If OAK's perimeter dike does not meet FEMA standards within this timeframe, the Maps will be revised to reflect the de-accreditation of OAK's perimeter dike and designate OAK as being in a Special Flood Hazard Area (SFHA). SFHA designation may require the Port to develop a Flood Plain Management Plan and adopt minimum floodplain management standards which would include significant building restrictions, including requirements that all new construction (and substantial improvements to existing structures) be designed such that the lowest floor is elevated above the projected base flood level, or be designed so that structures below the base flood level are watertight. These restrictions would be onerous and would likely incur additional costs and delay future airport development projects. Also, without performing these improvements, the dike can potentially breach from a 100-year storm event causing operational impacts to the airport. In the event of a dike breach, portions of the main commercial runway (Runway 11-29) may be inundated by Bay water.

NEPA and CEQA Consequences

The Port frequently works with the Federal Aviation Administration (FAA) to evaluate the NEPA process for OAK projects. FAA Order 1050.1E, Section 304, recognizes that some actions that "would normally be categorically excluded [from environmental review under NEPA] could require additional environmental analysis to determine appropriate NEPA documentation." This determination depends on whether the proposed action involves "extraordinary circumstances." Under Section 304c, such circumstances exist when the project would have a significant impact on a floodplain. This adds complexity to the environmental review that would have to take place for future projects normally cleared with a categorical exclusion. Issuance of a categorical exclusion would also rely on the FAA's concurrence that the proposed project's impacts on the floodplain would not be significant.

Additional cost and delay to the Port would also foreseeably arise under the requirements of CEQA. CEQA Guidelines Appendix G, Section VII(i) require evaluation of whether a given project would "expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee." Similar to the NEPA analysis above, this would not preclude use of categorical exemptions, but additional environmental analysis and findings would be required by the Port as the Lead Agency.

BUDGET & FINANCIAL IMPACT

Cost of Environmental Assessment

The environmental assessment work, without permits, is estimated to cost approximately \$375,000. Due to the complexity of this project, staff recommends a contingency of 15% (\$56,000) be added to the budget. Furthermore, EP&P requests the ability to expand URS Corporation's scope of work by \$49,000 to potentially assist staff with permitting, wetland mitigation or other related project tasks for a total amount of \$480,000.

Source of Funds

Programming for environmental review and design of the airport perimeter dike improvement project is included in the Port's approved CIP. The FAA recently approved the Port's PFC Application #14 which includes \$5 million for the airport perimeter dike improvement project.

Total Estimated Project Costs and Funding Sources

The estimated engineering study, design and environmental assessment cost is approximately \$3 million, the construction and mitigation cost is \$13 million, and the seismic improvements cost is approximately \$17 million, for a total project cost of approximately \$33 million, which does not include any costs to remove or relocate both abandoned and active pipelines located within the dike which could cost approximately \$15 million. The Port is in negotiations with the pipeline owners over the responsibility and cost for removal or relocation. While funding has yet to be secured for construction of the improvements funding for the environmental assessment is secured. Completion of the environmental assessment is necessary to obtain additional FAA and other potential federal or state funding.

The following table illustrates the recommended phased approach, estimated costs, existing and potential funding sources, and schedule:

Table 1: Airport Perimeter Dike Improvement Project - Recommended Phases, Estimated Costs, Funding Sources and Schedule

Phase	Estimated Costs	Funding Sources	Schedule
Phase 1A - Engineering Study and Design	\$2.5 million	Secured: Up to \$5 million in existing FAA approved	April 2008 to June 2011
Phase 1B - Environmental Impact Assessment and Permits	\$0.48 million	Passenger Facility Charge (PFC) funding	January 2010 to June 2011
Phase 2 - Construction and Mitigation for FEMA Flood Hazard Improvements	\$13 million	Not Secured: Potential sources include PFC, airline rates and charges, FAA grants (Airport Improvement Program (AIP)) and other grants (i.e., Water Resources Development Act (WRDA))	August 2011 to January 2012
Phase 3 - Construction of Seismic Improvements	\$17 million	Not Secured: Potential sources include PFC, airline rates and charges, FAA grants (AIP) and other grants (i.e., WRDA)	February 27, 2012 to January 2013
TOTAL	\$33* million		

Source: Port of Oakland, December 1, 2009

* Does not include approximately \$15 million to remove or relocate pipelines which are currently under negotiations with the pipeline owners.

Due to funding constraints, it is critical that the work be phased to allow flexibility in timing of spending and to maximize the opportunity for external funding sources.

STAFFING IMPACT

Because of the aggressive schedule and technical complexity of this project particularly within an aviation context, EP&P recommends the assistance of a specialized consultant. This action will not increase Port Full-Time Equivalent (FTEs).

SUSTAINABILITY

The perimeter dike is essential to prevent flooding of OAK from Bay waters. Without performing the improvements as recommended by URS Corporation, the dike can potentially breach from a 100-year storm event, resulting in inundation of Runway 11-29 and associated taxiway system. Improvements will promote the long-term viability of existing airport facilities and infrastructure and prevent operational impacts.

Public Involvement

The environmental assessment process will provide opportunities for the public to review and comment on the scope of work and related environmental documents for this project.

ENVIRONMENTAL

CEQA Determination

This agenda report approves the authorization to enter into a professional services agreement with URS Corporation. The California Environmental Quality Act (CEQA) Guidelines, Section 15061(b)(3) ("the general rule") state that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment, the activity is not subject to CEQA. Approving a professional services agreement with URS Corporation for aviation environmental consulting services is not a project under CEQA, and no environmental review is required for this action.

Environmental Remediation

This agenda report involves approving an agreement. It will not involve any construction activities that might disturb soil or groundwater.

Mitigation

Approval of URS Corporation to perform the environmental assessment of the airport perimeter dike will not have any significant impacts to the environment. Therefore, no mitigation measures are required for this action. As above, appropriate mitigation measures will be addressed in the environmental assessment for any potential adverse environmental effects.

MARITIME AND AVIATION PROJECT LABOR AGREEMENT (MAPLA)

This agreement is for professional services that do not include construction testing and inspection. The provisions of the Port's MAPLA do not apply to this work.

OWNER CONTROLLED INSURANCE PROGRAM (OCIP)

The Owner Controlled Insurance Program (OCIP) does not apply to this agreement.

GENERAL PLAN

This agenda report is for professional services and will not directly include any alteration of property. Improvement projects identified as a result of 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.

LIVING WAGE

Based upon a review of the proposed action and information provided by the Board Agenda, it appears that the living wage requirements set forth in Section 728 of the Charter of the City of Oakland apply to this agreement because the contract that would be assigned has a value greater than \$50,000 as calculated under Section 728. Also, because the consultant employs more than 20 employees, the living wage requirements apply.

OPTIONS

#1. Authorize the Executive Director to execute a Professional Services Agreement with URS Corporation to conduct the necessary environmental review to support the airport perimeter dike improvement project in an amount not to exceed \$480,000.

#2. Supplement the Engineering Division's existing contract with URS Corporation ("Vulnerability Assessment and Improvement Plan for the Airfield Perimeter Dike at the Oakland International Airport"- Resolution No. 07212) to include all environmental work associated with this project. This would potentially add costs not adequately covered in the existing contract and delay the project schedule in order to execute a supplemental agreement.

#3. Direct staff to perform all the duties required of the consultant. The Port does not currently have adequate staff to perform all the required technical analyses. This option would delay the project schedule due to a lack of sufficient resources.

RECOMMENDATION

It is recommended that the Board approve Option #1 to authorize the Executive Director to execute a Professional Services Agreement with URS Corporation to conduct the necessary environmental review to support the airport perimeter dike improvement project.

Handwritten initials

August 21, 2007
Item No.: A-1
PBH/jev *PBH*

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 07212

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH URS CORPORATION AT A MAXIMUM COMPENSATION DISCLOSED TO THE BOARD OF PORT COMMISSIONERS FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.

RESOLVED that based upon the information contained in Board Agenda Sheet Item No. A-1, dated August 21, 2007 (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with URS CORPORATION for **vulnerability assessment and improvement plan of the airfield perimeter dike** will constitute an agreement for obtaining professional, technical and specialized services that are temporary in nature and that it is in the best interest of the Port to secure such services from URS CORPORATION without competitive bidding; and be it

FURTHER RESOLVED that the Board of Port Commissioners ("Board") hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **URS CORPORATION** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation disclosed to the Board; and be it

FURTHER RESOLVED that the Board hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **URS CORPORATION** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation disclosed to the Board; and be it

FURTHER RESOLVED that the Board delegate its authority to the Executive Director for authorization and approval of a future First Supplemental Agreement with URS CORPORATION for the preparation of plans and project manual in connection with the construction of the improvement recommendations; and be it

FURTHER RESOLVED that this resolution is not evidence of and does not create or constitute (a) a contract, or the grant of any right, entitlement or property interest, or (b) any obligation or liability on the part of the Board or any officer or employee of the Board. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement is duly executed on behalf of the Board as authorized by this resolution, is signed and approved as to form and legality by the Port Attorney, and is delivered to other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on August 21, 2007



Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Kramer, McClure,
Scates and President Batarse – 5

Excused: Commissioners Katzoff and Protopappas – 2

AGENDA REPORT

C-1

TITLE:	Approval of a License & Concession Agreement with the Association for the Preservation of the Presidential Yacht Potomac for Various Port Premises for a Three Year Term with a Total Minimum Rent of \$24,192.00 per year.				
AMOUNT:	\$24,192.00 per year				
PARTIES INVOLVED:	<table border="1"><thead><tr><th>Corporate Name/Principal</th><th>Location</th></tr></thead><tbody><tr><td>Association for the Preservation of the Presidential Yacht Potomac</td><td>Oakland, CA</td></tr></tbody></table>	Corporate Name/Principal	Location	Association for the Preservation of the Presidential Yacht Potomac	Oakland, CA
Corporate Name/Principal	Location				
Association for the Preservation of the Presidential Yacht Potomac	Oakland, CA				
TYPE OF ACTION:	Resolution				
SUBMITTED BY:	Joyce Washington, Director of Commercial Real Estate 				
COMMITTEE ASSIGNED:	Commercial Real Estate				
SCHEDULED FOR COMMITTEE:	December 2, 2009				
APPROVED BY:	Omar Benjamin, Executive Director 				

FACTUAL BACKGROUND

In 1981 the Port of Oakland purchased the USS Potomac vessel for \$15,000 in a U.S. Customs auction after the former presidential yacht of Franklin Delano Roosevelt had been seized for its use in a bay area drug-smuggling operation. The Port's intent was to restore the vessel and create a memorial to the late president and promote it as a visitor attraction at Jack London Square. In an effort to achieve this goal, the Port partnered with various maritime corporations and local labor unions to establish the Association for the Preservation of the Presidential Yacht Potomac ("Association"), a 501(c)(3) non-profit to oversee the restoration and manage its operations, tours, charters and educational programs. In 1991 the USS Potomac was designated a National Historic Landmark.

The Association's Board of Governors consists of 20 members, who employ a full-time staff of 1, part-time staff of 1, 20 seasonal crew members and 112 volunteers. The original agreement between the Port and Association, which provided yearly cash funding and subsidies over the past 25 years expired on September 26, 2008. The Port staff has been in negotiations to consolidate agreements for all facilities used by the Association, eliminate cash subsidy and lower the in-kind contributions.

ANALYSIS

The Port would like to execute a License & Concession Agreement with the Association allowing them continued use of three Port facilities and establish certain obligations by both parties. The proposed L&C will be effective for three years and include the following:

Office and Visitors' Center: The Association's administrative office is located at 540 Water Street, which also serves as a museum and visitors' center. The premises is approximately 1,250 sq.ft. and monthly rent is \$2,016.00 per month (\$24,192.00 per year), increased annually.

Berthing Facility: The USS Potomac is berthed in Jack London Square at the foot of Clay Street, where dockside tours, history cruises and chartered cruises for the public are conducted. This berth was completed as part of a historic ships berthing project intended to provide a home for the USS Potomac and the Lightship Relief using Transportation Enhancement Activity funds. It is proposed to provide the berthing facility at no cost to the Association.

Yard Area: The Association also requires a yard area, located behind the Clay Street fire station, to make repairs and store parts and equipment. It is proposed to provide this yard area at no cost to the Association, however the Port will reserve the right to modify, terminate, or adjust the total area of their use. The yard is also used to house waste removal equipment and store common area equipment for Jack London Square.

Ownership of Potomac, its furnishings and movable equipment: The Association will retain ownership of the vessel, its furnishings and movable equipment. In the event of a sale of the vessel to a third party, all furnishings and movable equipment will be sold with the vessel.

Sale of Vessel During Term of License & Concession Agreement: Should the Association sell the USS Potomac to a third party during the term of this Agreement, the Port shall have no further obligations to provide the office/visitors' center, the berthing facility, or the yard area.

Operating Costs: In the past the Port funded and subsidized the Association's operation by providing an annual cash contribution, insurance, reprographic/postage, and electricity. In light of the Port's own financial challenges, these subsidies were terminated as of May 2009 and are fully supported through the Association's own budget.

BUDGET & FINANCIAL IMPACT

The proposed License & Concession Agreement will provide an annual rental income of \$24,192.00, adjusted annually in accordance with the Target Rent Increases.

STAFFING IMPACT

There are no staffing impacts resulting from the proposed action.

SUSTAINABILITY

While the proposed action does not directly address the Port's goals and objectives of our Sustainability Policy, Port staff has provided the Association with a copy of our Sustainability Toolkit, including a checklist and resources, with the intent of implementing sustainable practices when and where possible.

ENVIRONMENTAL

This project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15300.4 and the Port CEQA Guidelines Section 15301(p), which exempts renewal, extension or amendments to leases or license and concession agreements where the premises or licensed activity was previously leased or licensed to the same of another person, and including negligible or no expansion of use beyond that previously existing. The approval of a budget in order to meet the terms of an existing agreement is therefore categorically exempt under CEQA.

MARITIME AND AVIATION PROJECT LABOR AGREEMENT (MAPLA)

MAPLA does not apply to Commercial Real Estate projects.

OWNER CONTROLLED INSURANCE PROGRAM (OCIP)

OCIP does not apply to Commercial Real Estate projects.

GENERAL PLAN

The project conforms to the policies of the General Plan and the proposed action is an extension of a 25 year existing use.

LIVING WAGE

Based upon a review of the terms of the agreement and information provided by the financial assistance recipient, it appears that the living wage requirements set forth in Section 728 of the Charter of the City of Oakland and Port Ordinance Number 3666, as amended, do not apply because the financial assistance recipient employs fewer than the 21 employees working on Port-related work required for coverage. However, the financial assistance recipient will be required to certify that should living wage obligations become applicable, the financial assistance recipient shall comply with all of its obligations.

OPTIONS

1. Approve a License & Concession Agreement with The Association for the Preservation of the Presidential Yacht Potomac upon the terms described in this Agenda Report.
 2. Do not approve a License & Concession Agreement with The Association.
 3. Direct staff to renegotiate the terms described in this Agenda Report.
-

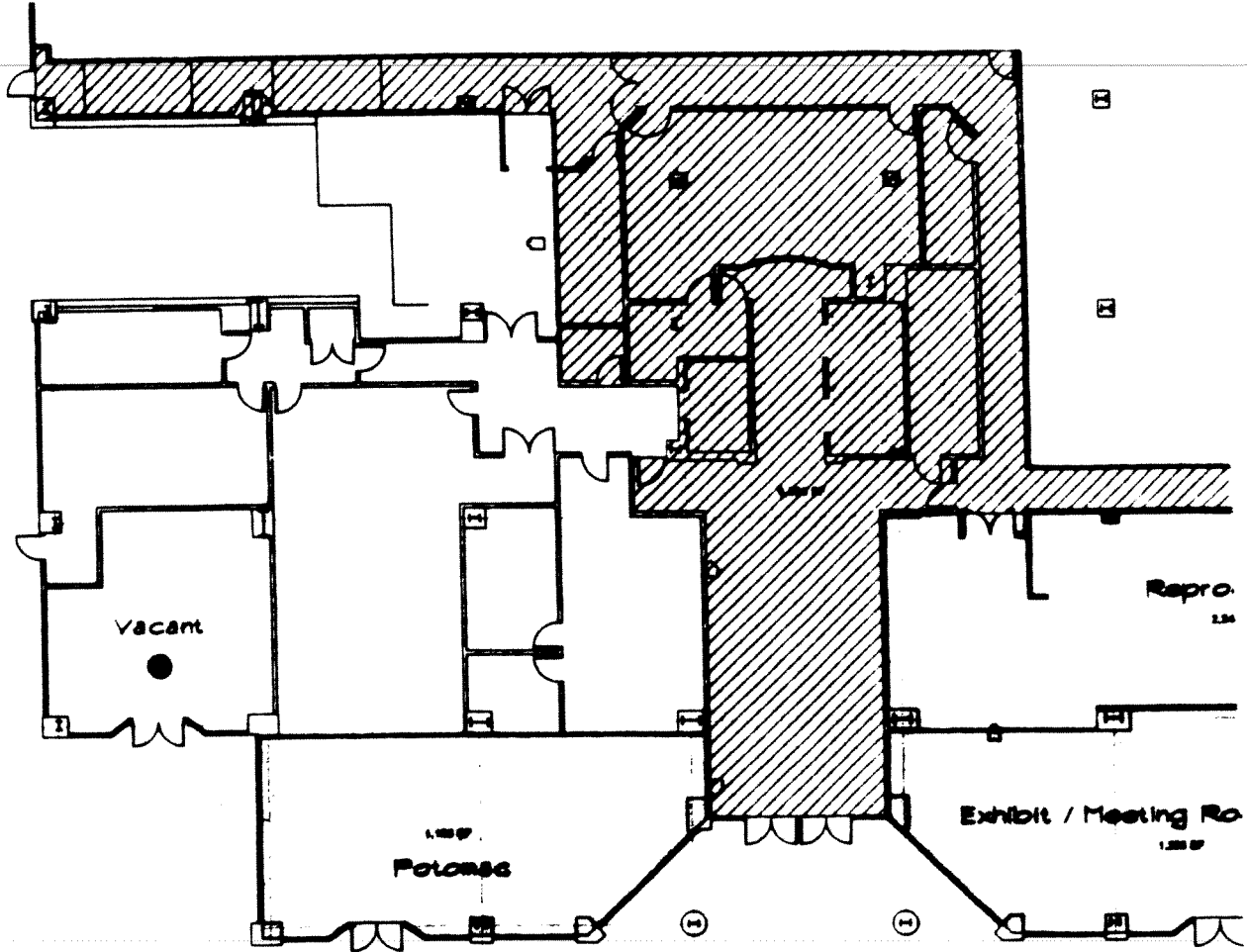
RECOMMENDATION

It is recommended that the Board authorize the Executive Director to execute a License & Concession Agreement with the Association for the Preservation of the Presidential Yacht Potomac for Various Port Premises for a Three Year Term with a Total Minimum Rent of \$24,192.00 per year.

EXHIBIT "B-2"

SKETCH OF PROPERTY

(page 1 of 2)



1st FLOOR

Scale: NTS

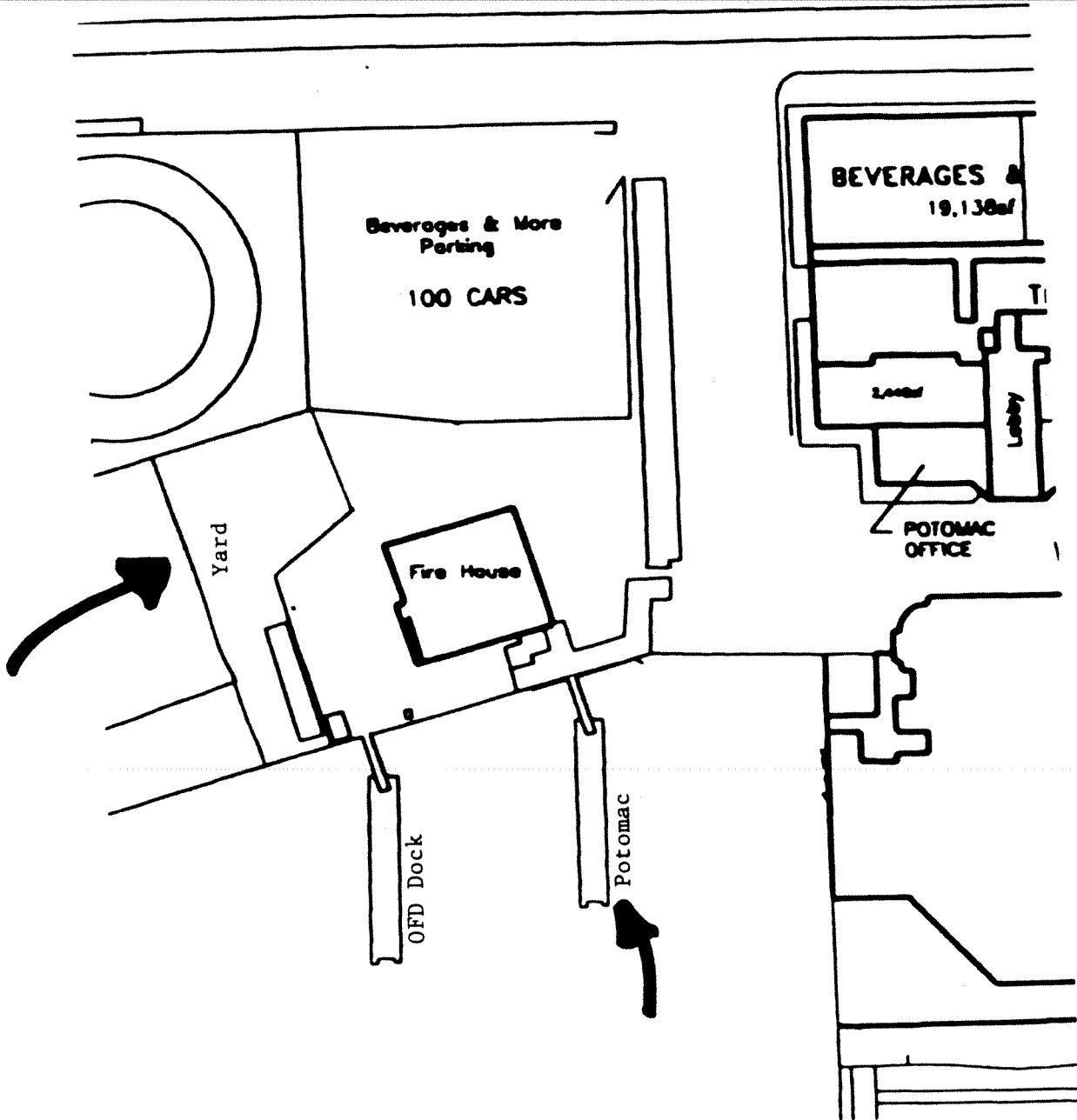
Temp DNR 42170861 POTOMAC L. & C. INC.
[CRE LICENSEE]
LICENSEE AND CONCESSION AGREEMENT
Date Last Revised: February 20, 2003

EXHIBIT "B-2"

SKETCH OF PROPERTY

Clay Street Berth
and Maintenance Yard

(page 2 of 2)



**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

PORT ORDINANCE 4114

AN ORDINANCE AMENDING PORT ORDINANCE NO. 3634 RELATING TO IDENTIFICATION BADGES AT METROPOLITAN OAKLAND INTERNATIONAL AIRPORT.

BE IT ORDAINED by the Board of Port Commissioners of the City of Oakland as follows:

Section 1. Section 10.5 of Port Ordinance No. 3634 is hereby amended to read as follows:

"Section 10.5: The following fees are hereby established for Airport Security Identification Display Area (SIDA) badges issued by the Port:

New SIDA Badge and renewal fee	\$ 25.00
First lost/unaccounted for badge	\$ 50.00
Second lost/unaccounted for badge	\$ 75.00
Third lost/unaccounted for badge	\$100.00
Fourth lost/unaccounted for badge	Permanent Revocation
Failure to surrender and return SIDA badge upon termination	\$ 50.00."

Section 2. The Board of Port Commissioners hereby finds and determines that the imposition of the changes referred to in Section 1 of this Ordinance is exempt from the requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Section 15301, Class 1 (c and d).

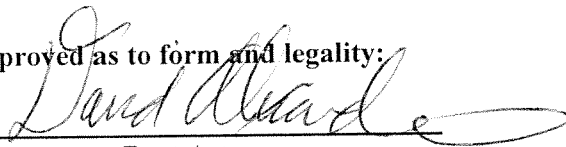
Section 3. This ordinance shall take effect on the date of its final adoption; provided, however, that if because of the referendum process the provisions of this Ordinance are challenged pursuant to state law prior to the expiration of 30 days from and after the date of the final adoption of this Ordinance, this Ordinance shall cease to be of any force or effect and all actions authorized by this Ordinance shall be null and void.

President.

Attest _____

Secretary.

Approved as to form and legality:



Port Attorney

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

PORT ORDINANCE 4115

AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF A DEVELOPMENT AGREEMENT AND A USE, OPERATION AND MAINTENANCE AGREEMENT WITH THE SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT ("BART") FOR THE BART-OAKLAND INTERNATIONAL AIRPORT CONNECTOR PROJECT, INCLUDING PAYMENT OF A PORT CONTRIBUTION FROM CERTAIN PASSENGER FACILITY CHARGES IN AN ADDITIONAL AMOUNT NOT TO EXCEED \$43.9 MILLION; FINDING THAT THE BART PROJECT STABILIZATION AGREEMENT MEETS THE REQUIREMENTS OF PORT RESOLUTION NO. 09080; AND DELEGATING AUTHORITY FOR CERTAIN FUTURE ACTIONS TO THE EXECUTIVE DIRECTOR AND DIRECTOR OF AVIATION.

BE IT ORDAINED by the Board of Port Commissioners of the City of Oakland as follows:

Section 1. The Board of Port Commissioners ("Board") hereby approves and authorizes execution for and on behalf of the Board of a Development Agreement and a Use, Operation and Maintenance Agreement ("Agreements") between the **CITY OF OAKLAND**, a municipal corporation, acting by and through the Board, and **BART**, for an Automated Guideway Transit System to connect the Oakland International Airport with BART's existing regional rail transit system, in Oakland, California, as follows: an aerial guideway would be constructed from the Coliseum Station to Pardee Drive near the Airport, over Highway I-880 and running parallel to and then over the median of Hegenberger Road; at Pardee Drive the guideway would shift toward 98th Avenue and descend into a 430-foot long tunnel under Doolittle Drive then return to grade on Airport property continuing to the intersection of Airport Drive and Ron Cowan Parkway, where it would transition to an aerial alignment into the Terminal area parking lot; at an additional cost to the Port not to exceed \$43.9 million, and otherwise upon terms and conditions consistent with those set forth in Agenda Report No. A-5 dated December 1, 2009 ("Agenda Report"), and such terms and

conditions as specified in the Agreements and approved by the Executive Director.

Section 2. The Executive Director is hereby authorized to execute and the Secretary to attest said Agreements.

Section 3. The Executive Director or Director of Aviation, without Board approval and in their sole discretion with concurrence of the Port Attorney, may execute amendments to the Agreements that result in (1) minor guideway alignment shifts between approximately Sta 42+00 to Sta 25+00 of up to 25 feet on Airport property in the area near Ron Cowan Parkway between guideway Sta 42+00 to Sta 32+00 by moving to the north-northwest, decreasing to a maximum of 19 feet at approximately Sta 29+00, decreasing further to no movement at approximately Sta 25+00, (2) adding the portion of the Airport-BART Project Footprint ("Footprint") eliminated by (1) above to the Airport-BART Project Construction Access Footprint ("Construction Footprint"), except any portion within a Port roadway, (3) a revision to the Construction Footprint to enable access to an Airport parking lot area outside the Construction Footprint boundaries, or (4) any insubstantial matter that does not change any aspect of the Footprint (except as set forth above) and does not increase Port costs or otherwise materially adversely affect Port operations or adversely affect Port safety, security or compliance with laws, and imposes no additional risks or material obligations on the Port, provided, that BART provides the Port with evidence reasonably satisfactory to the Port Attorney that BART may also execute such amendments without approval of the BART Board.

Section 4. The Board hereby finds that BART's Project Stabilization Agreement is acceptable to the Board and meets the requirements of Resolution No. 09080, as may be modified by this approval.

Section 5. This ordinance is not evidence of and does not create or constitute (a) a contract, lease or the grant of any right, entitlement or property interest, or (b) any obligation or liability on the part of the Board or any officer or employee of the Board. This ordinance approves and authorizes the execution of said Agreements in accordance with the terms of this Ordinance. Unless and until separate written Agreements are duly executed on behalf of the Board as authorized by this Ordinance, and is signed as approved as to form and legality by the Port Attorney, there shall be no valid or effective Agreements.

Section 6. The Board hereby finds and determines that environmental review under the California Environmental Quality Act for this project was conducted by BART through certification of an environmental impact report; and that the Board relies upon the adequacy of that environmental impact report and BART's associated findings, statement of overriding considerations, and mitigation monitoring and reporting plan; and, that the Board relies upon the substantial evidence in the record including the findings and statement of overriding considerations set forth in the Agenda Report in making these determinations.

Section 7. This Ordinance shall take effect on the date of its final adoption; provided, however, that if because of the referendum process the provisions of this Ordinance are challenged pursuant to state law prior to the expiration of 30 days from and after the date of the final adoption of this Ordinance, this Ordinance shall cease to be of any force or effect and all actions authorized by this Ordinance shall be null and void.

President

Attest _____

Secretary

Approved as to form and legality:



Port Attorney

BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND

Summary
Item S-3

PORT ORDINANCE 4116

AN ORDINANCE AMENDING PORT ORDINANCE NO. 867 TO
CREATE AN ADDITIONAL POSITION OF DEPUTY PORT
ATTORNEY IV AND TO DELETE ONE POSITION OF DEPUTY
PORT ATTORNEY V.

BE IT ORDAINED by the Board of Port Commissioners of the City of
Oakland as follows:

Section 1. Section 6.012 of Port Ordinance No. 867 is hereby amended
to add an additional position of Deputy Port Attorney IV.


Section 2. Section 6.013 of Port Ordinance No. 867 is hereby
amended to delete one position of Deputy Port Attorney V.

President.

Attest _____

Secretary.

Approved as to form and legality:



Port Attorney

BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND

PORT ORDINANCE 4117

ORDINANCE AMENDING PORT ORDINANCE NO. 867 RATIFYING AND SETTING THE COMPENSATION OF CERTAIN EMPLOYEES OF THE PORT DEPARTMENT BELONGING TO EMPLOYEE REPRESENTATION UNITS H, J AND M AND AMENDING SECTION 1.0301 PROVIDING PROFESSIONAL DEVELOPMENT BENEFITS FOR CERTAIN OFFICERS AND EMPLOYEES.

BE IT ORDAINED by the Board of Port Commissioners of the City of Oakland as follows:

Section 1. The salary schedules set forth in Port Ordinance No. 867 for Employee Representation Units H, J and M, shall be and the same is hereby set to be comparable to those agreed to with International Federation of Professional and Technical Engineers Local 21 (Local 21) and Western Council of Engineers (Western Council), effective July 1, 2009, and as more fully described in Agenda Report 0-4 dated December 1, 2009 (Agenda Report).

Section 2. Subsection 2 of Section 1.191 of Port Ordinance No. 867 shall be amended to add the following paragraph as follows:

"Section 1.191. Professional Development.

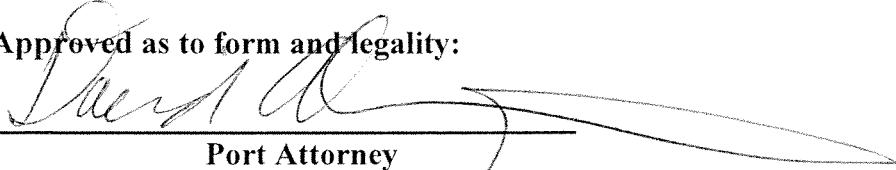
"With respect to permanent employees in Employee Representation Units J and M, an employee shall be eligible for reimbursement for expenses incurred for professional development, subject to budget approval for same by the Board, not to exceed \$1,100 for the fiscal year 2009; \$1,100 for the fiscal year 2010; \$1,100 for the fiscal year 2011, and \$1,100 for the fiscal year 2012; subject to the exceptions and provisions set forth at Section 3 below.

Section 3. The Board hereby ratifies, confirms and approves all payments from and after July 1, 2009, to the effective date of this ordinance.

President.

Attest: _____
Secretary.

Approved as to form and legality:



Port Attorney