AGENDA

Regular Meeting of the Board of Port Commissioners
Thursday October 18, 2012 – 1:00 p.m.
Board Room – 2nd Floor

ROLL CALL

1st Vice President Head, 2nd Vice-President Yee, Commissioner Butner, Commissioner Hamlin, Commissioner Parker, Commissioner Uno and President Gonzales.

1. CLOSED SESSION

1.1 CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION. Pursuant to Subdivision (a) of California Government Code Section 54956.9.

SSA Terminals, LLC and SSA Terminals (Oakland), LLC v. the City of Oakland, Acting by and Through its Board of Port Commissioners Docket No. 09-08

1.2 CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION. Significant Exposure to Litigation Pursuant to Subdivision (b) of California Government Code Section 54956.9: 13 matter(s)

1.3 PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Titles: Executive Director, Port Auditor, Board Secretary

1.4 CONFERENCE WITH LABOR NEGOTIATORS. Pursuant to Subdivision (a) of California Government Code Section 54957.6.

Employee Organizations: International Brotherhood of Electrical Workers (IBEW Local 1245), International Federation of Professional and Technical Engineers (IFPTE Local 21), Service Employees International Union (SEIU Local 1021), and Western Council of Engineers (WCE)
1.5 PUBLIC EMPLOYEE APPOINTMENT

Title: Port Attorney

1.6 CONFERENCE WITH LABOR NEGOTIATORS. Pursuant to Subdivision (a) of California Government Code Section 54957.6.

Employee Organizations: International Brotherhood of Electrical Workers (IBEW Local 1245), International Federation of Professional and Technical Engineers (IFPTE Local 21), Service Employees International Union (SEIU Local 1021), and Western Council of Engineers (WCE)

ROLL CALL/OPEN SESSION (approximately 5:00 p.m.)

1st Vice President Head, 2nd Vice-President Yee, Commissioner Butner, Commissioner Hamlin, Commissioner Parker, Commissioner Uno and President Gonzales.

CLOSED SESSION REPORT

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

2. MAJOR PROJECTS

This segment of the meeting is reserved for action and discussions regarding the status of Major Projects and issues of special importance.

2.1 Project Status Report: Oakland Army Base (Maritime)

2.2 Budget Authorization and Related Approvals to Solicit Proposals to Design and Build the Outer Harbor Intermodal Terminal Railyard, Phase 1, at the Former Oakland Army Base. (Maritime)

3. BUDGET & FINANCE

This segment of the meeting is reserved for action or discussion regarding the status of Budget and Finance issues.

4. STRATEGY & POLICY

This segment of the meeting is reserved for action or discussion on Strategy and Policy Issues.

4.1 Informational Report: Governmental Affairs Update (External Affairs)
5. CONSENT ITEMS

Action by the Board under “Consent Items” means that all matters listed below have been summarized and will be adopted by one motion and appropriate vote. Consent Items may be removed for further discussion by the Board at the request of any member of the Board.

5.1 Approval Of The Minutes Of The Regular Meetings Of September 20, 2012, October 4, 2012 and the Special Meeting of October 5, 2012 & October 6, 2012. (Board Secretary)

5.2 Ordinance No. 4203, 2nd Reading Of An Ordinance Approving And Authorizing The Executive Director To Execute A Grant Of Easement To The East Bay Municipal Utility District (“EBMUD”).

5.3 Building Permit Application: Ports America - Berth 24, Installation of shore power, ($ TBD) (Engineering)

5.4 Budget Approval and Other Associated Authorizations for the Construction of a Large Vehicle Wash Rack, North Field, OAK (Aviation)

5.5 Approval of Various Space/Use Permits for the Installation and Operation of Automated Teller Machines (ATMs) at Oakland International Airport (Aviation)

5.6 Approval of the Second Amendment to Utility and Janitorial Agreement with the United States of America, acting through the Transportation Security Administration at Oakland International Airport (Aviation)

5.7 Approval of a Telecommunications License Agreement with New Cingular PCS, LLC dba AT&T Mobility at Oakland International Airport (Aviation)

5.8 Approval of a 10 Year Sublease With One Option to Renew for a Five Year Term for Approximately 9,200 sq.ft. Located at 1 Broadway, Oakland, CA (CRE)

5.9 Approval of an Assignment of a Ground Lease from Motel 6 Operating LP to G6 Hospitality Property, LLC for Property Located at 1805 Embarcadero, Oakland, California. (CRE)

5.10 Ordinance No. 4204, 2nd Reading Of An Ordinance Amending The By-Laws And Administrative Rules Of The Board Of Port Commissioners.

5.11 Ordinance No. 4205, 2nd Reading Of An Ordinance Approving The Terms And Conditions And Authorizing The Execution Of A Fifth Supplemental Lease Agreement To Ground Lease With United States Of America, Department Of Transportation, Federal Aviation Administration (“FAA”).

5.12 Ordinance No. 4206, 2nd Reading Of An Ordinance Approving A License And Concession Agreement With Brotzeit-Lokal, LLC For The Premises Located At 1000 Embarcadero, Oakland, California With A Monthly Rental Revenue Of $215,566.
5.13 **Informational Report: Annual Change Order Report on Construction Contracts**
Completed during FY 11/12 (Engineering)

6. **REMAINING ACTION ITEMS**

   Remaining Action Items are items not previously addressed in this Agenda that may require staff presentation and/or discussion and information prior to action by the Board.

7. **UPDATES/ANNOUNCEMENTS**

   The President and / or Executive Director will report on noteworthy events occurring since the last Board Meeting.

8. **SCHEDULING**

   This segment of the meeting is reserved for scheduling items for future Agendas and/or scheduling Special Meetings

**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**

The next Regular Meeting of the Board will be held on November 1, 2012 at 1:00 p.m. in the Board Room.
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 Assistant Secretary of the Board **no later than five working days** prior to the scheduled meeting date.

Daria Edgerly, Assistant Secretary of the Board
530 Water Street, Oakland, CA 94607
dedgerly@portoakland.com
(510) 627-1337

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 or immediately after conclusion of Closed Session. Cards received after the start of the meeting will be treated as a single request to speak in Open Forum. 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.portofoakland.com

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

This segment of the meeting is reserved for action and discussions regarding the status of Major Projects and issues of special importance.
PORT OAB OBJECTIVES

- Aggressively grow new cargo activity, jobs, and revenue through the Port of Oakland, while improving the environment.

- Plan new logistics and intermodal facilities for major customers to use Oakland as a hub for not just regional, but also inland markets.

- Work with key shippers, railroads and ocean carriers to attract new inland point intermodal cargo through Oakland.

- Maximize utilization of existing assets prior to development.
• Base Closed in 1999
• Transferred to the Port and City from 2003-2007
• Port OAB lands: 187 acres
• City OAB lands: 193 acres
• Port earns $4.9 million in annual revenue from current activities
  – Trucking
  – Transloading
  – Warehousing
  – Parking
2012 MASTER PLAN

- Shared vision for 380 acre new port industrial district.

- Joint planning effort between the City of Oakland, Port of Oakland, Prologis, California Capital Group from April 2011- June 2012

- Funds provided by Oakland Redevelopment Agency

- City of Oakland studied environmental impacts in 2002 and updated their findings with an Initial Study / Addendum, published in June 2012*

- California Capital Group led planning effort, including a multi-disciplinary team of engineers, architects, planners and scientists

*http://www2.oaklandnet.com/Government/o/PBN/OurServices/Application/DOWD009157
Oakland Army Base
2012 Master Plan
## 2012 MASTER PLAN ELEMENTS

- **Port Lands**
  - New Rail Yard $249,500,000
  - New Logistics Buildings $69,200,000
  - Truck Parking Services $10,000,000

- **City Lands**
  - New Bulk Terminal $37,800,000
  - New Logistics Buildings $125,400,000
  - New Recycling Center $46,600,000
  - Truck Parking Services $10,000,000

- **New infrastructure:**
  - 7th Street Grade Separation $304,800,000
  - New Maritime Street and Burma Road $29,800,000
  - New Utility Systems $41,900,000
  - Soil Stabilization $192,000,000
  - Demolition $19,500,000
  - Planning, Permitting $4,400,000

- **Environmental Investigation and Remediation** $11,400,000

- **Total Estimated Cost** $1,106,300,000

Sources: 2012 OAB Master Plan, and Port of Oakland
MASTER PLAN IMPLEMENTATION

- Projects to be delivered in phases maximizing state, federal and local funds
  - $242 million from California’s Trade Corridors Improvement Fund
  - $15 million in federal TIGER funds
  - Potential funds from Alameda County sales tax augmentation
  - Potential funds from MAP-21 Transportation Reauthorization
- City entering into and negotiating development agreements with Prologis and California Capital Group, recyclers, and Oakland Maritime Support Services (OMSS)
- $500 million first phase of approximately 230 acres
- Community Benefits to be delivered by City through an agreement framework and by the Port through a project based approach
- Development of second phase will be based on:
  - Available funding
  - Strength of the market
  - Port cargo growth
OAB PHASE 1 DEVELOPMENT AND EXISTING PORT OPERATIONS

PORTS AMERICA OUTER HARBOR TERMINALS

CITY NEW BULK TERMINAL

PORT BUILDINGS TO REMAIN FOLLOWING PARTIAL DEMOLITION BY CITY.

REMAINING BUILDINGS TO BE LEASED BY PORT PRIOR TO DEVELOPMENT OF PHASE II RAIL YARD

PORT NEW RAIL YARD

CITY NEW LOGISTICS BUILDINGS

CITY NEW TRUCK PARKING SERVICES

NEW RECYCLING FACILITIES

UNITED INTERMODAL SERVICES

PACIFIC COAST CONTAINER

RFID ENROLLMENT CENTER

FOOD TRUCK

MDI Forest Products

STEL ENROLLMENT CENTER

WINGS DEPOT

RECYCLED ASPHALT AND CONCRETE PILES

BRIA STREET

PORTS AMERICA OUTER HARBOR TERMINALS
PHASE I DEVELOPMENT SCOPE

City Work – Construction from 2013-2020

• New Infrastructure
  – New Maritime Street and Burma Road
  – New Utility Systems
  – Soil Stabilization
  – Demolition

• New Recycling Facilities
• New Bulk Terminal
• New Logistics Buildings

Port Work – Construction from 2013-2015

• New Rail Yard (Phase I)
## PHASE I COST AND FUNDING

<table>
<thead>
<tr>
<th>Project Element</th>
<th>Estimated Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Environmental Remediation (Phase I City and Port lands)</td>
<td>$11,400,000</td>
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<tr>
<td>New Infrastructure (Phase I City and Port lands)</td>
<td>$247,241,000</td>
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<tr>
<td>City Recycling Center</td>
<td>$46,600,000</td>
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<tr>
<td>City Logistics Buildings</td>
<td>$99,400,000</td>
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<tr>
<td>Port Rail Yard</td>
<td>$94,600,000</td>
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<tr>
<td>Phase I Total Cost</td>
<td>$499,241,000</td>
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<table>
<thead>
<tr>
<th>Funding Source</th>
<th>Funding Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>State - Trade Corridors Improvement Fund</td>
<td>$242,141,000</td>
</tr>
<tr>
<td>Federal - TIGER IV</td>
<td>$15,000,000</td>
</tr>
<tr>
<td>City of Oakland</td>
<td>$54,500,000</td>
</tr>
<tr>
<td>Port of Oakland</td>
<td>$15,700,000</td>
</tr>
<tr>
<td>Private - Prologis, CCIG &amp; Recycling Companies</td>
<td>$171,900,000</td>
</tr>
<tr>
<td>Total</td>
<td>$499,241,000</td>
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</tbody>
</table>
PHASE II DEVELOPMENT SCOPE

• New 7th Street Grade Separation (Port)
  – Reduce truck-train conflicts
  – Provide direct connection between marine and rail terminals
  – Improve roadway safety, clearances through existing underpass

• New Phase II Rail Yard (Port)
  – New state of the art, high efficiency intermodal rail facility
  – Integration with marine terminal operations
  – Integration with existing Joint Intermodal Terminal for greater economy of scale
  – Design capacity of 400,000 lifts (containers) per year on 65 acres

• New Logistics Buildings (Port)
  – Up to 1 million square feet of state-of-the-art warehouse space on 80 acres
  – Coordinate development with absorption of new City buildings
  – Limit development within and adjacent to phase II rail alignment
  – Provide 15 ac. truck parking area
PHASE II IMPLEMENTATION

- **7th Street Grade Separation Project**
  - Subject to additional funding, potentially via Alameda County Transportation Commission.
  - Estimated Cost $300 million
  - Design and Construction estimated to take 5 years

- **Rail Yard Phase II – Intermodal Container Terminal**
  - Subject to market demand for expanded intermodal rail services
  - Estimated Cost $150 million
  - Design and Construction estimated to take 3 years

- **Trade and Logistics Facilities**
  - Subject to market demand
  - Includes new 15 acre truck parking facility
  - Estimated Cost $70 million
  - Design and Construction estimate to take 1-2 years per building
2012 MASTER PLAN SHOWN WITH 7TH STREET GRADE SEPARATION
## NEXT STEPS

### Phase I Rail Yard
- California Transportation Commission Funding Allocation: October 2012
- Issue Design-Build Request for Proposals: October 2012
- Select Design-Builder: January 2013
- Notice to Proceed: March 2013
- Complete Construction: July 2015
- Establish Tariff for New Rail Terminal: December 2012
- Issue Rail Operator Request for Proposals: January 2013
- Coordination with City and its Developers: on-going
- Provide updates to local community: on-going

### Port Leasing Activity
- Lease Available Buildings and Lands: on-going
- Work with City and Developers to attract key users: on-going

### Port Marketing Activity
- Meet with key customers to grow new cargo business: on-going
Questions and Comments should be directed to:
Mark Erickson, Port of Oakland Maritime Division
(510) 627-1549
merickson@portoakland.com
AGENDA REPORT

TITLE: Budget Authorization and Related Approvals to Solicit Proposals to Design and Build the Outer Harbor Intermodal Terminal Railyard, Phase 1, at the Former Oakland Army Base

AMOUNT: An Amount Disclosed to the Board of Port Commissioners\(^1\)

PARTIES INVOLVED:

<table>
<thead>
<tr>
<th>Corporate Name/Principal</th>
<th>Location</th>
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TYPE OF ACTION: Resolution

SUBMITTED BY: James Kwon, Director of Maritime
Chris Chan, Director of Engineering

APPROVED BY: Omar Benjamin, Executive Director

SUMMARY

This Agenda Report seeks authorization for the following actions for the competitive Design Build procurement of the capital project Outer Harbor Intermodal Terminal ("OHIT") Railyard, Phase 1 ("Project") at the former Oakland Army Base development ("OAB"): (a) approve budget in the amount disclosed to the Board of Port Commissioners ("Board")\(^1\); (b) dispense with standard bidding procedures and solicit proposals through a competitive bid process from interested Design Build entities; and (c) authorize the Executive Director to resolve any bid protests. The selected Design Build entity will be responsible for completing the OHIT Railyard, Phase 1 designing and constructing the Project as described below.

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\(^1\) The Engineering Division has informed the Board of Port Commissioners of its estimate for the cost of the proposed work. It is not disclosed here in the best interest of the public and the negotiating process. Actual amounts will be available after all the negotiations have been completed.\(^1\) The Maritime and Engineering Divisions have informed the Board of their estimates of the cost of the Design Build work. Those estimates are not disclosed here to protect the competitive Design Build bid process staff is recommending. Actual amounts will be available after all the contract agreements have been negotiated and signed.
FACTUAL BACKGROUND

As a result of following the Oakland Army Base (OAB) closure in 1999, the Port of Oakland ("Port") and the City of Oakland ("City") received title to their separate portions of over 400 acres of property surrounding the other Port property. In order to coordinate closely on development of their respective lands, the Port and the City entered into a Cost Sharing Agreement dated July 27, 2011, as amended and restated as of June 19, 2012 (collectively, the "CSA"), pursuant to which, among other things, the City has contracted with their one of its development partners, Prologis and California Capital & Investment Group, to prepare master design plans for the redevelopment of the entire former OAB. The City's design-development team has completed a Master Plan Design Set dated June 15, 2012 (hereafter, the "OAB Master Plan"), for redevelopment of the OAB, including both the City and Port portions of the OAB, and reconstruction of Maritime Street and 7th Street. The Port has agreed in concept to the OAB Master Plan subject to Port comments (previously submitted) being adequately addressed. The City's design-development team and the Port have not yet agreed upon a resolution to all of the Port's comments, but the portions of OAB Master Plan related to the Port portions of the OAB were assigned by the City to the Port by Section 6.05(a) of the CSA.

Based on all input received, the City's design-development team has completed a Master Plan Design Set dated June 15, 2012 (hereafter, the “OAB Master Plan”), for redevelopment of the OAB, including both the City and Port portions of the OAB, and reconstruction of Maritime Street and 7th Street. The Port has agreed in concept to the OAB Master Plan subject to Port comments (previously submitted) being adequately addressed. The City's design-development team and the Port have not yet agreed upon a resolution to all of the Port's comments, but the portions of OAB Master Plan related to the Port portions of the OAB were assigned by the City to the Port by Section 6.05(a) of the CSA.

The Project generally consists of constructing an approximately 35 acre freight railyard for the storage and inspection of unit train and manifest train railcars, lead tracks, and signal equipment to connect the Port's Phase 1 OHIT Railyard to Union Pacific Railroad's ("UPRR") existing mainline track system to the north of the OAB and the Port's Joint Intermodal Terminal ("JIT") to the south of the OAB; the Project also includes track connections to the City's Gateway rail development. The Project is anticipated to generate 50 construction jobs.

The funding sources for the proposed OAB development included approximately $242 million from the Trade Corridors Improvement Fund ("TCIF"), which is granted and administered by the California Transportation Commission ("CTC") and the California Department of Transportation ("CalTrans"). Specifically, the approved TCIF amount for the Outer Harbor Intermodal Terminals (Originally in 2009, the CTC granted TCIF funds to the Port for two separate projects: (1) the OHIT project at $132 million; and (2) the 7th St. Grade Separation Project ("7th St. GSP") projects were $132 million and at $110 million, respectively. In February 2012, the CTC suggested that the Port restructure its TCIF projects, with the entire funding amount from the TCIF reprogrammed to the OHIT project. Further, Under this approach, the 7th St. GSP potentially would be potentially funded by future Alameda County Transportation Commission ("ACTC") sales tax funds.
and is not technically in the project scope of the TCIF funded portions of the OAB development.

In order to remain eligible for TCIF funding, the OHIT Project must meet the original construction start deadline of December 2013, required by the TCIF program, and also must meet other development progress milestones that have been incorporated into an amended Baseline Agreement that was entered into among the CTC, Caltrans, the City and the Port on August 22, 2012, when the CTC unanimously approved the TCIF Baseline Agreement amendment and the CEQA addendum for the OAB project.

Port staff anticipates using the June 25, 2012, Transportation Investment Generating Economic Recovery ("TIGER") IV grant award to fund additional OHIT railyard construction under a separate contract that will meet the TIGER IV contracting requirements. Staff will return to the Board later this year or in early 2013 to seek separate Board authorization for the federally funded portion of the Project.

On May 11, 2012, the Board authorized the Executive Director to execute an agreement for professional engineering services with Parsons Transportation Group ("Parsons") for the preparation for fer-of bridging documents for-sufficient to allow the Port to solicit proposals from Design Build entities to propose on the Design Build of the OHIT Railyard, Phase 1 project. The Project generally consists of constructing an approximately 35 acre freight railyard for the storage and inspection of unit train and manifest train railcars, lead tracks, and signal equipment to connect the Port’s Phase 1 OHIT Railyard to Union Pacific Railroad’s (UPRR’s) existing mainline track system to the north of the OAB and the Port’s Joint Intermodal Terminal (JIT) to the south of the OAB, and track connections to the City of Oakland’s Gateway rail development. The project will require strengthening and/or relocation of utilities including a Kinder Morgan fuel line that serves the Oakland International Airport, East Bay Municipal Utility District water lines, Pacific Gas & Electric Company electric lines, and AT&T telecommunication lines. In addition, the project will require a significant amount of coordination with Union Pacific Railroad (UPRR) to connect into their existing rail system. Port staff have been working with the above utility service providers, UPRR and the City and its development partners to get the necessary agreements in place for the construction schedule to meet the requirements in the TCIF agreement for the Project.

Port staff and Parsons are now finalizing the Request for Proposal ("RFP"), project manual, and associated bridging documents for prospective proposers to prepare proposals for the Design Build of the OHIT Railyard Phase 1 Project. Port staff anticipates issuing the RFP and associated bridging documents are anticipated to be available to prospective proposers in late on October 29, 2012.

**ANALYSIS**

In order to meet the schedule requirements in the TCIF amended Baseline Agreement, the Project would can only allow have a relatively short 8-week proposal period.
Accordingly, to give all prospective proposers a basis to start developing building their teams for the competitive bid process, Port staff issued a Preliminary Instructions Notice to Prospective Bidders on July 16, 2012, outlining the anticipated Project description, schedule, Project requirements, and preliminary selection criteria. These preliminary instructions were in advance of the formal RFP solicitation-anticipated to be issued after the CTC has allocated TCIF monies for the project. In addition, Port staff conducted a Project Information Session on August 2, 2012, that session was attended by over 100 individuals from interested consultants and contractors.

The CTC has indicated that it will allocate TCIF monies for the Project during its October 24, 2012 meeting. On schedule to meet the grant deadlines, Port staff anticipates issuing the RFP, soliciting proposals from interested Design Build entities after CTC’s allocation meeting. Further, staff will not on October 29, 2012; Port staff further anticipates that the Board will award the contract until after the CTC action to allocate the TCIF monies for the project occurs thereafter based on the results of the competitive Design Build process discussed below. CTC staff has confirmed that this timing complies with their grant administration procedures.

As a reminder, OHIT Phase 1 is anticipated to generate 50 construction jobs over the project duration and this project is a key piece of the Port’s economic impact. Port staff is recommending a competitive Design Build procurement for the Project for a number of reasons. First, the Design Build process allows the Port to benefit of significant input from the contractor who will build the Project during the design process; this typically results in efficiencies and cost benefits not achieved in the more traditional design-bid-build procurements.

Second, while the Port can, under some limited circumstances authorized by Port Ordinance No. 1606, Section 5.j., forego competitive bidding, including where calling for bids on a competitive basis is “impracticable, unavailing or impossible,” or after a finding and determination by the Board that “it is in the best interests of the Port,” Port staff has concluded that it is in the best interests of the Port to proceed with an open and competitive “best value” selection of a design-builder so that the Port can consider not only price, but also the qualifications and experience of the team, the proposed technical approach, their contractor procurement/implementation plan to maximize local and small business and individual participation. Moreover, since the competitive process is structured to include all qualified bidders, the best interests of the Port should be served by that process.

The responses to the proposed Design Build Project RFP will be evaluated and ranked by a five (5)-person team comprised of senior members of Port staff and the Port’s technical consultant, on the following criteria:

<table>
<thead>
<tr>
<th>Proposal Evaluation Criteria</th>
<th>Weighting (%)</th>
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<tbody>
<tr>
<td>Price</td>
<td>45</td>
</tr>
<tr>
<td>Contractor Implementation Plan</td>
<td>15</td>
</tr>
</tbody>
</table>
This weighting has been determined after extensive discussion among Port staff, outside consultants and inside and outside counsel, and consideration of the approaches which could achieve the best value procurement for the Port. It balances the important components of price, qualifications, technical approach and implementation plan, all of which are contemplated by Section 6 of Port Ordinance No. 1606. Based on the current schedule, staff anticipates presenting the results of the evaluation to the Board in February 2013, with a recommendation that the Board award the contract to the Design Build entity who receives the highest number of points pursuant to the above-referenced performance evaluation criteria and weighting.

**Schedule**

Separate and apart from the milestones required in the CSA, the amended Baseline Agreement, and the TCIF Program rules, the Port has established the following Milestone Schedule to meet TCIF deadline requirements if the money is allocated by the CTC in October 2012:

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Achievement Date</th>
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<tbody>
<tr>
<td>Issue Request for Proposals (RFP)</td>
<td>October 2012</td>
</tr>
<tr>
<td>Pre-Proposal Conference</td>
<td>RFP + 2 weeks</td>
</tr>
<tr>
<td>Proposals Due</td>
<td>RFP + 8 weeks</td>
</tr>
<tr>
<td>Staff Recommendation for Selection of Design Builder</td>
<td>February 2013</td>
</tr>
<tr>
<td>Contract Award by the Board and Execution</td>
<td>February - March 2013</td>
</tr>
<tr>
<td>Notice to Proceed (Design)</td>
<td>April 2013</td>
</tr>
<tr>
<td>Notice to Proceed (Construction)</td>
<td>July 2013</td>
</tr>
<tr>
<td>Project Completion</td>
<td>June 2015</td>
</tr>
</tbody>
</table>

**LOCAL BUSINESS UTILIZATION AND OUTREACH**

Consistent with the nexus-based approach that was outlined and presented to the Board on July 26, 2012, the Port’s Non-Discrimination and Small Local Business Utilization Policy (“NDSLBUP”) for Alternative Project Delivery Approaches (“APDA”) was applied to this Project. The Social Responsibility Division worked closely with
Outreach measures included email notification of the Project advertisement to the local business community including the Port’s database of certified businesses for specific work categories, community based organizations, advertising in the Oakland Tribune, and posting on the Port’s website, in addition to the detailed outreach in the following way:

- Outreach to the specific work categories that reside in the Port’s local business area (Alameda and Contra Costa Counties):
  - Consulting Engineers
  - Civil Engineers
  - Electrical Engineers
  - Geotechnical Engineers
  - Mechanical Engineers
  - Construction Managers
  - Demolition Contractors
  - Rail Construction Contractors
  - Paving and Grading Contractors
  - Utility Construction Contractors
  - Fencing Contractors
  - Painting Contractors
  - Land Surveyors

- Outreach to firms in the Port’s certified database (representing local/small businesses) and in Caltrans’ certified database of Disadvantaged Business Enterprises (“DBEs”) doing business within the identified categories.

- Sharing the Port certified list of firms with prime contractors.

- Email blasts to trade associations, industry groups, chambers and workforce community based organizations; in addition E-blasts were shared with sister agencies (i.e., City of Oakland, County of Alameda, etc.) and construction clearinghouses.

- Port website announcement of the upcoming contract opportunity.

- On July 7, 2012, Port staff conducted a Community Information Session at the West Oakland Senior Center to build local contractor awareness and knowledge of the forthcoming RFP. The information session was well received, with 82 individuals from the local community in attendance.

- Over 130 individuals from 100 firms attended the Port’s August 2, 2012 Project Information Session. As part of The Project Information Session and information packet provided to prospective proposers, information sharing and education of regarding requirements, goals, and resources (e.g., certification and technical assistance), and a meet and greet forum for teaming opportunities and expectations.
As an enhancement to the existing NDSLBUP and to address the community concern of knowing how many jobs are coming into the West Oakland zip code/census tract, the proposers are required to submit a subcontractor procurement and implementation plan, which includes a targeted recruitment plan and a census block data-tract reporting program. Port staff will track and monitor the selected Design Builder’s execution of its approved procurement and implementation plan.

**STRATEGIC PLAN**

The Oakland Army Base Development Project is consistent with the following goals and objectives of the Strategic Plan for FY2013 through FY2015:

<table>
<thead>
<tr>
<th>Strategic Priority Areas</th>
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<th>Objectives</th>
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<tr>
<td><strong>Goal A:</strong> Create Sustainable Economic Growth For The Port And Beyond.</td>
<td>1. Maximize the use of existing assets. 3. Increase revenue, job creation and small business growth.</td>
<td>This proposed Rail Yard would provide new business opportunities to current and future Port customers on the former OAB.</td>
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<td>2. Market strategically and aggressively to attract new customers and tenants.</td>
<td>This Project allows the Port to seek new rail-served customers to move additional cargo through the Port.</td>
<td></td>
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<tr>
<td><strong>Goal C:</strong> Promote equitable community access to employment and business opportunities.</td>
<td>2. Conduct comprehensive communication and outreach to stakeholders and strategic partners to improve workforce and small business opportunities.</td>
<td>During the RFP development process for Design Build entities, the Port conducted and will continue to conduct outreach to certified local and small businesses and Caltrans certified Disadvantage Business Enterprises (DBEs) regarding the potential work for the Port’s Design Build Project.</td>
<td></td>
</tr>
<tr>
<td><strong>Goal F:</strong> Aggressively obtain maximum amount of external grant and government funding and regulatory relief.</td>
<td>1. Seek out and pursue all promising and prospective grants and external funding sources. 2. Partner with other agencies to create joint grant strategies.</td>
<td>Over 80% of the Rail Yard development cost will be funded by the TCIF.</td>
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BUDGET & FINANCIAL IMPACT

The Port’s OHIT Railyard Phase 1 Project will be funded primarily by TCIF funds, as well as by Port and City funds as stated in the Port/City Cost sharing agreement CSA approved by the Board. Under the CSA approved by the Board in May 11, 2012 At that time, the Board authorized $10,000,000 over 4 years for Port staff and consulting costs to support the joint Port/City Project and the preparation of bridging documents and consultant support for the Port’s Phase 1 railyard Project. Staff is now seeking approval of the remaining Project budget for the final design and construction of the OHIT Railyard Phase 1 Project.

The TCIF funds would be applicable to construction funds only, so the Port’s staff and consultant costs are currently funded by the Port. The exact amount of the Design Build contract will be negotiated after the top ranked Design Build entity is selected through the competitive bid process.

The Oakland Army Base Development Project is included in the Port’s 5-Year Capital Needs Assessment (“CNA”) for FY 2012-13 to FY 2016-17. A limited amount of funds ($940,000) was previously approved for FY12 to cover costs up to June 30, 2012. For the current fiscal year (FY 2012-13), $4,600,000 in funding has been approved.

The anticipated cost and funding for the OAB Project in the Capital Needs Assessment CNA is summarized below:

<table>
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<tr>
<th>Amounts in $000s</th>
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STAFFING IMPACT

The engineering effort required to support the Port’s OHIT Project, as well as the common infrastructure work with the City, is higher than initially anticipated. Additionally, the work associated with the preparation of a separate federally funded project has increased the demands on staff. Although the need is being temporarily met by re-assigning available resources, this is a short-term solution, and it is anticipated that limited duration staff will be required to support the Port’s OHIT Railyard Phase 1 Project. The table below shows the revised staffing needs to support this Project:

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Approval of Design Build RFP for OHIT Railyard Phase 1

<table>
<thead>
<tr>
<th>Staff</th>
<th>FTE Required</th>
<th>FTE Available</th>
<th>Status of Resource</th>
</tr>
</thead>
<tbody>
<tr>
<td>Engineering Division</td>
<td>3.0</td>
<td>1.5</td>
<td>Staffing need can be met by re-assigning available resources for the interim. However, as the project moves into the next phase, additional staffing resources will need to be brought onboard to provide the necessary service.</td>
</tr>
<tr>
<td>Maritime Division</td>
<td>1.0</td>
<td>0</td>
<td>Budget for additional Maritime staff was included in the FY12-13 operating budget. Once the process to fill the vacant positions is concluded and new staff begins, workloads will be shifted to support this project.</td>
</tr>
<tr>
<td>Port Attorney</td>
<td>0.5</td>
<td>0.5</td>
<td>Staffing need can be met with existing and realignment of available internal and external resources</td>
</tr>
<tr>
<td>Contract Compliance</td>
<td>0.5</td>
<td>0</td>
<td>Current staffing vacancies in SRD will hinder the immediate need for SRD staffing on this aspect of the project. Vacancies are planned to be filled in January/February 2013 timeframe.</td>
</tr>
<tr>
<td>Environmental Division</td>
<td>0.5</td>
<td>0</td>
<td>A new staff Environmental Planner is anticipated to start work in October 2012. Once the new planner begins, the workload will be shared with the Environmental Supervisor.</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>5.5</strong></td>
<td><strong>2</strong></td>
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The above staffing needs represent the core staff required to support this Project, which is anticipated to last approximately 4 years. Additional support will be required from other Port staff as the work progresses to provide guidance and make decisions on items that affect the Port’s business, operations and maintenance responsibilities. The budget requested includes the estimated total effort associated with Port staff.

**SUSTAINABILITY**

Port staff and consultants attempt to prepare technical memorandums, plans, specifications, and reports in electronic format (e.g., PDF), saving paper, ink, electricity (associated with printing and copying), and trees. It is anticipated that there will be opportunities for implementing energy efficient measures with respect to the design of

283027v1 Approval of Design Build RFP for OHIT Railyard Phase 1

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the Project. These measures will include demolition materials for reuse, and use of materials with recycled content. In addition, any excess clean material (e.g., asphalt/concrete waste) generated from the paving activities will be crushed and reused as part of the railyard construction.

ENVIRONMENTAL

The proposal to authorize the Executive Director to solicit Design-Build bids and award a contract for OHIT rail yard, Phase 1 at the former OAB Project was reviewed in accordance with the requirements of the California Environmental Quality Act ("CEQA") and the Port CEQA Guidelines.

In July 2002, the City of Oakland (City), acting through the Oakland Base Reuse Authority ("OBRA"), approved a reuse plan for the entire OAB. The City, as the lead agency under CEQA, certified an Environmental Impact Report ("EIR") at that time. On September 17, 2002, the Board of Port Commissioners, acting on behalf of the Port as a responsible agency under CEQA, adopted findings and a mitigation program in reliance on the City's EIR (Resolution No. 02317). The OAB EIR described projects to be developed by the Port on its portion of the base, including a rail terminal as described in this Agenda Report.

To ensure that both the Port's and City's latest development plans for the OAB (project) were properly analyzed under CEQA, City staff, in consultation with Port staff, prepared the “2012 Oakland Army Base Project Initial Study/Addendum” (2012 IS/Addendum), dated May 2012, which evaluated all of the proposed Project's potentially significant environmental effects and concluded that the OAB project would not result in new significant environmental impacts or a substantial increase in the severity of significant impacts already identified in prior CEQA reviews conducted for the OAB. The Oakland City Council determined on June 19, 2012 that it could rely on the 2002 EIR and the 2012 IS/Addendum for development of the OAB Project, and adopted the Standard Conditions of Approval/Mitigation Monitoring and Reporting Program ("SCA/MMRP").

The Board, in reliance on the lead CEQA agency’s determination, considered the 2012 IS/Addendum and adopted mitigation measures applicable to the Port on June 21, 2012 when it approved modifications to the former OAB Final Development Plan relating to the rail program (Resolution No. 12-76). Thus, no further CEQA review is required to construct the Project, which includes the OHIT rail yard, Phase 1.

The Design Build entity selected for this Project will be required to comply with the applicable design and construction mitigation measures and standard conditions of approval in the adopted SCA/MMRP, which is available on-line: http://www2.oaklandnet.com/Government/o/PBN/OurServices/Application/OAK035062

All projects on the Economic Development Conveyance property at the former Oakland Army Base must be completed in compliance with the September 27, 2002 Remedial
Action Plan ("RAP") and Risk Management Plan ("RMP", which is Appendix E to the RAP) prepared for the State of California Department of Toxic Substances Control and the Oakland Base Reuse Authority OBRA.

MARITIME AND AVIATION PROJECT LABOR AGREEMENT (MAPLA)

A portion of the work performed under the Design Build contract, namely, the construction work and any construction related testing and inspection work, is within the scope of the Port of Oakland Maritime and Aviation Project Labor Agreement ("MAPLA"), and the provisions of the MAPLA will apply only to the work that is within the scope of the MAPLA.

OWNER CONTROLLED INSURANCE PROGRAM (OCIP)

As this Project is a capital expenditure, the Port’s Owner Controlled Insurance Program ("OCIP") applies to the construction work and the Port’s Professional Liability Insurance Program ("PLIP") applies to the consulting services.

GENERAL PLAN

Pursuant to Section 727 of the City of Oakland Charter, this Project, as specified in the design standards, has been determined to conform to the policies for the transportation designation of the Oakland General Plan.

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 construction portion of this contract, because the contract is a construction contract covered by the state prevailing wage rules and the prevailing rate of wage is higher than the wage required by the Living Wage Regulations. However, living wage requirements will apply to the Design Build portion of this contract, if the service provider employs 21 or more employees working on Port-related work.

OPTIONS

The Board may consider two options as presented below:

1. Authorize the Executive Director to Solicit Proposals for the Design Build of the Outer Harbor Intermodal Terminal Railyard, Phase 1, at the Former Oakland Army Base. This is the recommended option.

2. Do not authorize the Executive Director to Solicit Proposals from Design Build Entities for the Design Build of the Outer Harbor Intermodal Terminal Railyard,
Phase 1, at the Former Oakland Army Base. Under this option, the Project would not be developed and the TCIF commitment for the project would be forfeited.

3. Direct the Executive Director to pursue another option (e.g., sole source) for the design and development of the Project. Under this option, the Port would likely receive significant and costly protests from potential bidders based on Port Ordinance No. 1606 and other sources, and could lose TCIF funding due to delays in completion.

RECOMMENDATION

Staff recommends that the Board authorize the Executive Director to:

a. Approve budget in the amount disclosed to the Board;

b. Dispense with standard bidding procedures and solicit Proposals from Design Build Entities for the Design Build of the Outer Harbor Intermodal Terminal Railyard, Phase 1, at the Former Oakland Army Base under a competitive bidding process; and

c. Resolve any protests based on the selection.
**Summary Report:**
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<td>Total Changes:</td>
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</table>
AGENDA REPORT

TITLE: Budget Authorization and Related Approvals to Solicit Proposals to Design and Build the Outer Harbor Intermodal Terminal Railyard, Phase 1, at the Former Oakland Army Base

AMOUNT: An Amount Disclosed to the Board of Port Commissioners

PARTIES INVOLVED:

<table>
<thead>
<tr>
<th>Corporate Name/Principal</th>
<th>Location</th>
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TYPE OF ACTION: Resolution

SUBMITTED BY: James Kwon, Director of Maritime
Chris Chan, Director of Engineering

APPROVED BY: Omar Benjamin, Executive Director

SUMMARY

This Agenda Report seeks authorization for the following actions for the competitive Design Build procurement of the capital project Outer Harbor Intermodal Terminal (“OHIT”) Railyard, Phase 1 (“Project”) at the former Oakland Army Base (“OAB”): (a) approve budget in the amount disclosed to the Board of Port Commissioners (“Board”)

(b) dispense with standard bidding procedures and solicit proposals through a competitive bid process from interested Design Build entities; and (c) authorize the Executive Director to resolve any bid protests. The selected Design Build entity will be responsible for designing and constructing the Project as described below.

FACTUAL BACKGROUND

Following the OAB closure in 1999, the Port of Oakland (“Port”) and the City of Oakland (“City”) received title to their separate portions of over 400 acres of property surrounding other Port property. In order to coordinate closely on development of their respective

1 The Maritime and Engineering Divisions have informed the Board of their estimates of the cost of the Design Build work. Those estimates are not disclosed here to protect the competitive Design Build bid process staff is recommending. Actual amounts will be available after all the contract agreements have been negotiated and signed.
lands, the Port and the City entered into a Cost Sharing Agreement dated July 27, 2011, as amended and restated as of June 19, 2012 (collectively, the “CSA”), pursuant to which, among other things, the City contracted with one of its development partners, California Capital & Investment Group, to prepare master design plans for the redevelopment of the entire former OAB; the Port provided substantial input to the plans for the mutual benefit of all parties. The CSA, among other things, sets forth a number of milestones that each of the City and the Port must meet in order to maintain progress on the overall development of the OAB in accordance with other schedules required by the California Transportation Commission (“CTC”).

Based on all input received, the City’s design-development team has completed a Master Plan Design Set dated June 15, 2012 (hereafter, the “OAB Master Plan”), for redevelopment of the OAB, including both the City and Port portions of the OAB, and reconstruction of Maritime Street and 7th Street. The Port has agreed in concept to the OAB Master Plan subject to Port comments (previously submitted) being adequately addressed. The City’s design-development team and the Port have not yet agreed upon a resolution to all of the Port’s comments, but the portions of OAB Master Plan related to the Port portions of the OAB were assigned by the City to the Port by Section 6.05(a) of the CSA.

The Project generally consists of constructing an approximately 35 acre freight railyard for the storage and inspection of unit train and manifest railcars, lead tracks, and signal equipment to connect the Port’s Phase 1 OHIT Railyard to Union Pacific Railroad’s (“UPRR’s”) existing mainline track system to the north of the OAB and the Port’s Joint Intermodal Terminal (“JIT”) to the south of the OAB; the Project also includes track connections to the City’s Gateway rail development. The Project is anticipated to generate 50 construction jobs.

The funding sources for the proposed OAB development include approximately $242 million from the Trade Corridors Improvement Fund (“TCIF”), which is granted and administered by the CTC and the California Department of Transportation (“CalTrans”). Originally, in 2009, the CTC granted TCIF funds to the Port for two separate projects: (1) the OHIT at $132 million; and (2) the 7th St. Grade Separation Project (“7th St. GSP”) at $110 million. In February 2012, the CTC suggested that the Port restructure its TCIF projects, with the entire funding amount from the TCIF reprogrammed to the OHIT project. Under this approach, the 7th St. GSP potentially would be funded by future Alameda County Transportation Commission (“ACTC”) sales tax funds and is not technically in the project scope of the TCIF funded portions of the OAB development.

In order to remain eligible for TCIF funding, the Project must meet the construction start deadline of December 2013 required by the TCIF program, and also must meet other development progress milestones that have been incorporated into an amended Baseline Agreement that was entered into among the CTC, Caltrans, the City and the Port on August 22, 2012, when the CTC unanimously approved the TCIF Baseline Agreement amendment and the CEQA addendum for the OAB project.
Port staff anticipates using the June 25, 2012, Transportation Investment Generating Economic Recovery (“TIGER”) IV grant award to fund additional OHIT railyard construction under a separate contract that will meet the TIGER IV contracting requirements. Staff will return to the Board later this year or in early 2013 to seek separate Board authorization for this federally funded portion of the Project.

On May 11, 2012, the Board authorized the Executive Director to execute an agreement for professional engineering services with Parsons Transportation Group (“Parsons”) for the preparation of bridging documents sufficient to allow the Port to solicit proposals from Design Build entities for the Project.

Port staff and Parsons are now finalizing the Request for Proposal (“RFP”), project manual, and associated bridging documents for the Design Build of the Project. Port staff anticipates issuing the RFP and associated bridging documents to prospective proposers on October 29, 2012.

**ANALYSIS**

In order to meet the schedule requirements in the TCIF amended Baseline Agreement, the Project can only have a relatively short 8-week proposal period. Accordingly, to give all prospective proposers a basis to start building their teams for the competitive bid process, Port staff issued a Preliminary Notice to Prospective Bidders on July 16, 2012, outlining the anticipated Project description, schedule, Project requirements, and preliminary selection criteria in advance of the formal RFP solicitation. In addition, Port staff conducted a Project Information Session on August 2, 2012; that session was attended by over 100 individuals from interested consultants and contractors.

To keep the Project on schedule to meet the grant deadlines, Port staff anticipates issuing the RFP soliciting proposals from interested Design Build entities on October 29, 2012; Port staff further anticipates that the Board will award the contract thereafter based on the results of the competitive Design Build process discussed below. CTC staff has confirmed that this timing complies with their grant administration procedures.

Port staff is recommending a competitive Design Build procurement for the Project for a number of reasons. First, the Design Build process allows the Port to benefit of significant input from the contractor who will build the Project during the design process; this typically results in efficiencies and cost benefits not achieved in the more traditional design-bid-build procurements.

Second, while the Port can, under some limited circumstances authorized by Port Ordinance No. 1606, Section 5.j., forego competitive bidding, including where calling for bids on a competitive basis is “impracticable, unavailing or impossible,” or after a finding and determination by the Board that “it is in the best interests of the Port,” Port staff has concluded that it is in the best interests of the Port to proceed with an open and
competitive “best value” selection of a design-builder so that the Port can consider not only price, but also the qualifications and experience of the team, the proposed technical approach, their contractor procurement/implementation plan to maximize local and small business and individual participation. Moreover, since the competitive process is structured to include all qualified bidders, the best interests of the Port should be served by that process.

The responses to the proposed Design Build Project RFP will be evaluated and ranked by a five (5)-person team comprised of senior members of Port staff and the Port’s technical consultant, on the following criteria:

<table>
<thead>
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<th>Proposal Evaluation Criteria</th>
<th>Weighting (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Price</td>
<td>45</td>
</tr>
<tr>
<td>Contractor Implementation Plan</td>
<td>15</td>
</tr>
<tr>
<td>Qualifications/Experience/Prior Performance</td>
<td>20</td>
</tr>
<tr>
<td>Technical Approach</td>
<td>15</td>
</tr>
<tr>
<td>Interviews</td>
<td>5</td>
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This weighting has been determined after extensive discussion among Port staff, outside consultants and inside and outside counsel, and consideration of the approaches which could achieve the best value procurement for the Port. It balances the important components of price, qualifications, technical approach and implementation plan, all of which are contemplated by Section 6 of Port Ordinance No. 1606. Based on the current schedule, staff anticipates presenting the results of the evaluation to the Board in February 2013, with a recommendation that the Board award the contract to the Design Build entity who receives the highest number of points pursuant to the above-referenced performance evaluation criteria and weighting.

**Schedule**

Separate and apart from the milestones required in the CSA, the amended Baseline Agreement, and the TCIF Program rules, the Port has established the following Milestone Schedule to meet TCIF deadline requirements if the money is allocated by the CTC in October 2012:

<table>
<thead>
<tr>
<th>Milestone</th>
<th>Achievement Date</th>
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<tbody>
<tr>
<td>Issue Request for Proposals (RFP)</td>
<td>October 2012</td>
</tr>
<tr>
<td>Pre-Proposal Conference</td>
<td>RFP + 2 weeks</td>
</tr>
<tr>
<td>Proposals Due</td>
<td>RFP + 8 weeks</td>
</tr>
<tr>
<td>Staff Recommendation for Selection of Design Builder</td>
<td>February 2013</td>
</tr>
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**LOCAL BUSINESS UTILIZATION AND OUTREACH**

Consistent with the nexus-based approach that was outlined and presented to the Board on July 26, 2012, the Port’s Non-Discrimination and Small Local Business Utilization Policy (“NDSLBUP”) for Alternative Project Delivery Approaches (“APDA”) was applied to this Project. The Social Responsibility Division worked closely with Maritime Planning and Engineering to ensure outreach and analysis in the accordance with the NDSLBUP-APDA. Outreach measures included email notification of the Project advertisement to the local business community including the Port’s database of certified businesses for specific work categories, community based organizations, advertising in the Oakland Tribune, and posting on the Port’s website, in addition to the detailed outreach in the following way:

- Outreach to the specific work categories that reside in the Port’s local business area (Alameda and Contra Costa Counties):
  - Consulting Engineers
  - Civil Engineers
  - Electrical Engineers
  - Geotechnical Engineers
  - Mechanical Engineers
  - Construction Managers
  - Demolition Contractors
  - Rail Construction Contractors
  - Paving and Grading Contractors
  - Utility Construction Contractors
  - Fencing Contractors
  - Painting Contractors
  - Land Surveyors

- Outreach to firms in the Port’s certified database (representing local/small businesses) and in Caltrans’ certified database of Disadvantaged Business Enterprises (“DBEs”) doing business within the identified categories.

- Sharing the Port certified list of firms with prime contractors.
• Email blasts to trade associations, industry groups, chambers and workforce community based organizations; in addition E-blasts were shared with sister agencies (e.g., City, County of Alameda, etc.) and construction clearinghouses.

• Port website announcement of the upcoming contract opportunity.

• On July 7, 2012, Port staff conducted a Community Information Session at the West Oakland Senior Center to build local contractor awareness and knowledge of the forthcoming RFP. The information session was well received, with 82 individuals from the local community in attendance.

• Over 130 individuals from 100 firms attended the Port’s August 2, 2012 Project Information Session. The Project Information Session and information packet provided to prospective proposers, information sharing, education regarding requirements, goals, and resources (e.g., certification and technical assistance), and a meet and greet forum for teaming opportunities and expectations.

As an enhancement to the existing NDSLBUP and to address the community concern of knowing how many jobs are coming into the West Oakland zip code/census tract, the proposers are required to submit a subcontractor procurement and implementation plan, which includes a targeted recruitment plan and a census tract reporting program. Port staff will track and monitor the selected Design Builder’s execution of its approved procurement and implementation plan.

STRATEGIC PLAN

The Project is consistent with the following goals and objectives of the Strategic Plan for FY2013 through FY2015:

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<td>2. Conduct comprehensive</td>
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Sustainable Economic and Business Development

| Goal F. Aggressively obtain maximum amount of external grant and government funding and regulatory relief. | Goal F. | 1. Seek out and pursue all promising and prospective grants and external funding sources.  
2. Partner with other agencies to create joint grant strategies. | Over 80% of the Rail Yard development cost will be funded by the TCIF. |

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<table>
<thead>
<tr>
<th>Staff</th>
<th>FTE Required</th>
<th>FTE Available</th>
<th>Status of Resource</th>
</tr>
</thead>
<tbody>
<tr>
<td>Engineering Division</td>
<td>3.0</td>
<td>1.5</td>
<td>Staffing need can be met by reassigning available resources for the interim. However, as the project moves into the next phase, additional staffing resources will need to be brought onboard to provide the necessary service.</td>
</tr>
<tr>
<td>Maritime Division</td>
<td>1.0</td>
<td>0</td>
<td>Budget for additional Maritime staff was included in the FY12-13 operating budget. Once the process to fill the vacant positions is concluded and new staff begins, workloads will be shifted to support this project.</td>
</tr>
<tr>
<td>Port Attorney</td>
<td>0.5</td>
<td>0.5</td>
<td>Staffing need can be met with existing and realignment of available internal and external resources</td>
</tr>
<tr>
<td>Contract Compliance</td>
<td>0.5</td>
<td>0</td>
<td>Current staffing vacancies in SRD will hinder the immediate need for SRD staffing on this aspect of the project. Vacancies are planned to be filled in January/February 2013 timeframe.</td>
</tr>
<tr>
<td>Environmental Division</td>
<td>0.5</td>
<td>0</td>
<td>A new staff Environmental Planner is anticipated to start work in October 2012. Once the new planner begins, the workload will be shared with the Environmental Supervisor.</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>5.5</strong></td>
<td><strong>2</strong></td>
<td></td>
</tr>
</tbody>
</table>

The above staffing needs represent the core staff required to support this Project, which is anticipated to last approximately 4 years. Additional support will be required from other Port staff as the work progresses to provide guidance and make decisions on...
items that affect the Port’s business, operations and maintenance responsibilities. The budget requested includes the estimated total effort associated with Port staff.

**SUSTAINABILITY**

Port staff and consultants attempt to prepare technical memorandums, plans, specifications, and reports in electronic format (e.g., PDF), saving paper, ink, electricity (associated with printing and copying), and trees. It is anticipated that there will be opportunities for implementing energy efficient measures with respect to the design of the Project. These measures will include demolition materials for reuse, and use of materials with recycled content. In addition, any excess clean material (e.g., asphalt/concrete waste) generated from the paving activities will be crushed and reused as part of the railyard construction.

**ENVIRONMENTAL**

The proposal to authorize the Executive Director to solicit Design-Build bids for the Project was reviewed in accordance with the requirements of the California Environmental Quality Act ("CEQA") and the Port CEQA Guidelines.

In July 2002, the City, acting through the Oakland Base Reuse Authority ("OBRA"), approved a reuse plan for the entire OAB. The City, as the lead agency under CEQA, certified an Environmental Impact Report ("EIR") at that time. On September 17, 2002, the Board, acting on behalf of the Port as a responsible agency under CEQA, adopted findings and a mitigation program in reliance on the City’s EIR (Resolution No. 02317). The OAB EIR described projects to be developed by the Port on its portion of the base, including a rail terminal as described in this Agenda Report.

To ensure that both the Port’s and City’s latest development plans for the OAB project were properly analyzed under CEQA, City staff, in consultation with Port staff, prepared the “2012 Oakland Army Base Project Initial Study/Addendum” (2012 IS/Addendum), dated May 2012, which evaluated all of the proposed Project's potentially significant environmental effects and concluded that the OAB project would not result in new significant environmental impacts or a substantial increase in the severity of significant impacts already identified in prior CEQA reviews conducted for the OAB. The Oakland City Council determined on June 19, 2012 that it could rely on the 2002 EIR and the 2012 IS/Addendum for development of the OAB Project, and adopted the Standard Conditions of Approval/Mitigation Monitoring and Reporting Program ("SCA/MMRP").

The Board, in reliance on the lead CEQA agency’s determination, considered the 2012 IS/Addendum and adopted mitigation measures applicable to the Port on June 21, 2012 when it approved modifications to the former OAB Final Development Plan relating to the rail program (Resolution No. 12-76). Thus, no further CEQA review is required to construct the Project.
The Design Build entity selected for this Project will be required to comply with the applicable design and construction mitigation measures and standard conditions of approval in the adopted SCA/MMRP, which is available on-line: http://www2.oaklandnet.com/Government/o/PBN/OurServices/Application/OAK035062

All projects on the Economic Development Conveyance property at the former Oakland Army Base must be completed in compliance with the September 27, 2002 Remedial Action Plan (“RAP”) and Risk Management Plan (“RMP”, which is Appendix E to the RAP) prepared for the State of California Department of Toxic Substances Control and the OBRA.

**MARITIME AND AVIATION PROJECT LABOR AGREEMENT (MAPLA)**

A portion of the work performed under the Design Build contract, namely, the construction work and any construction related testing and inspection work, is within the scope of the Port of Oakland Maritime and Aviation Project Labor Agreement (“MAPLA”), and the provisions of the MAPLA will apply only to the work that is within the scope of the MAPLA.

**OWNER CONTROLLED INSURANCE PROGRAM (OCIP)**

As this Project is a capital expenditure, the Port’s Owner Controlled Insurance Program (“OCIP”) applies to the construction work and the Port’s Professional Liability Insurance Program (“PLIP”) applies to the consulting services.

**GENERAL PLAN**

Pursuant to Section 727 of the City of Oakland Charter, this Project, as specified in the design standards, has been determined to conform to the policies for the transportation designation of the Oakland General Plan.

**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 construction portion of this contract, because the contract is a construction contract covered by the state prevailing wage rules and the prevailing rate of wage is higher than the wage required by the Living Wage Regulations. However, living wage requirements will apply to the Design Build portion of this contract if the service provider employs 21 or more employees working on Port-related work.

**OPTIONS**

The Board may consider two options as presented below:
1. Authorize the Executive Director to Solicit Proposals for the Design Build of the Outer Harbor Intermodal Terminal Railyard, Phase 1, at the Former Oakland Army Base. This is the recommended option.

2. Do not authorize the Executive Director to Solicit Proposals from Design Build Entities for the Design Build of the Outer Harbor Intermodal Terminal Railyard, Phase 1, at the Former Oakland Army Base. Under this option, the Project would not be developed and the TCIF commitment for the project would be forfeited.

3. Direct the Executive Director to pursue another option (e.g., sole source) for the design and development of the Project. Under this option, the Port would likely receive significant and costly protests from potential bidders based on Port Ordinance No. 1606 and other sources, and could lose TCIF funding due to delays in completion.

RECOMMENDATION

Staff recommends that the Board authorize the Executive Director to:

a. Approve budget in the amount disclosed to the Board;  

b. Dispense with standard bidding procedures and solicit Proposals from Design Build Entities for the Design Build of the Outer Harbor Intermodal Terminal Railyard, Phase 1, at the Former Oakland Army Base under a competitive bidding process; and  

c. Resolve any protests based on the selection.
Budget Authorization and Related Approvals to Construct the Outer Harbor Intermodal Terminal Railyard, Phase 1, at the Former Oakland Army Base
RESOLUTION APPROVING AND AUTHORIZING THE TOTAL PROJECT BUDGET IN THE AMOUNT CERTIFIED BY THE BOARD OF PORT COMMISSIONERS (“BOARD”) FOR DESIGN BUILD OF OUTER HARBOR INTERMODAL TERMINAL RAILYARD, PHASE 1; FINDING AND DETERMINING THAT IT IS IN THE BEST INTEREST OF THE PORT OF OAKLAND (“PORT”) TO CONTRACT FOR SUCH WORK WITHOUT STANDARD BIDDING PROCEDURES; AUTHORIZING THE DIRECTOR OF ENGINEERING OF THE PORT OF OAKLAND (“DIRECTOR OF ENGINEERING”) TO APPROVE THE PLANS AND SPECIFICATIONS; AND CALLING FOR FORMAL PROPOSALS THEREFOR.

WHEREAS, the Board of Port Commissioners (“Board”) has reviewed and evaluated Board Agenda Report Item No. 2.2, dated October 18, 2012 (“Agenda Report”) and related agenda materials, has received the expert testimony of Port staff, and has provided opportunities for and taken public comment; now, therefore, be it

RESOLVED, that in acting upon this matter, the Board has exercised its independent judgment based on substantial evidence in the record and adopts and relies upon the facts, data, analysis, and findings set forth in the Agenda Report and in related agenda materials and in testimony received; and be it

FURTHER RESOLVED, that based upon the information contained in the Agenda Report, the Board hereby finds and determines that it is in the best interest of the Port to approve and authorize the project budget for Design-Build of Outer Harbor Intermodal Terminal Railyard, Phase 1, at the Former Oakland Army Base, Oakland, California (“OHIT Railyard Phase 1”) in a total aggregate amount not to exceed the amount certified by the Board, as more fully described in the Agenda Report; and be it

FURTHER RESOLVED, that the Board hereby finds and determines that the development and use provided for in the project manual for the OHIT Railyard Phase 1 and the subsequent use of the development approved by this resolution are in conformity with the General Plan of the City of Oakland; and be it
FURTHER RESOLVED, that the Director of Engineering or his designee is authorized to approve the plans and specifications for **OHIT Railyard Phase 1** in advance of construction, pursuant to Government Code Section 830.6; and be it

FURTHER RESOLVED, that based upon the information contained in the Agenda Report, the Board hereby finds and determines that it is in the best interest of the Port to authorize the project for **OHIT Railyard Phase 1** through a competitive bid process, without dispensing with standard bidding procedures and that said standard bidding procedures are hereby waived; and be it

FURTHER RESOLVED, that the Secretary of the Board is hereby authorized to advertise for four consecutive days in the official newspaper of the City of Oakland for sealed proposals for the **OHIT Railyard Phase 1** not less than ten calendar days prior to the date set for receiving said bids; and be it

FURTHER RESOLVED, that the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA") apply to the **OHIT Railyard Phase 1**; and be it

FURTHER RESOLVED, that on September 17, 2002, the Board, pursuant to Resolution No. 02317, certified the Environmental Impact Report ("EIR") for this project, as subsequently updated by the 2012 Oakland Army Base Project Initial Study Addendum; and be it

FURTHER RESOLVED, that, pursuant to Port Ordinance No. 1606, Section 22, the Board finds and determines it to be in the Port’s best interest to delegate to the Executive Director, and hereby delegates to the Executive Director, the authority to finally resolve bid protests in connection with **OHIT Railyard Phase 1**; and be it

FURTHER RESOLVED, that the total expenditures under any agreements executed pursuant to this resolution shall not exceed the total aggregate amount certified by the Board.
BUDGET & FINANCE

This segment of the meeting is reserved for action or discussion regarding the status of Budget and Finance issues.
STRATEGY & POLICY

This segment of the meeting is reserved for action or discussion on Strategy and Policy Issues.
INFORMATIONAL REPORT
(This Item is for information only and no action is requested or required of the Board of Port Commissioners.)

<table>
<thead>
<tr>
<th>TITLE:</th>
<th>Government Affairs Update</th>
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<td>BOARD MEETING</td>
<td>October 18, 2012</td>
</tr>
<tr>
<td>DATE:</td>
<td></td>
</tr>
<tr>
<td>SUBMITTED BY:</td>
<td>Isaac Kos-Read, Director of External Affairs</td>
</tr>
<tr>
<td>APPROVED BY:</td>
<td>Omar Benjamin, Executive Director</td>
</tr>
</tbody>
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SUMMARY

The Port’s Governmental Affairs (GA) team has been actively engaged this year on a number of priority funding, legislative, regulatory and advocacy initiatives across the Port’s multiple lines of businesses. Working in concert with multiple and various teams representing nearly every Port Division, major initiatives this year have included the following:

- California Transportation Commission adoption of the amended baseline agreements for the development of the former Oakland Army Base (OAB)
- Award of a $15 million competitive TIGER 2012 grant for Port’s Phase I Rail yard on the former OAB
- Approval of initial capital funding for the Airport Perimeter Dike improvements through a competitive statewide water bond program
- Legislative passage of amendments to the existing Air Resources Board’s rules for distributing nearly $17 million in shore power grant funds

While some issues may not have seen ultimate legislative success (such as the shore power legislation, SB 234, which was vetoed by the Governor), progress on the intent of the initiative was still realized and will be accomplished through alternative administrative means. Additionally, the Port GA team has been actively engaged in macro-level policy making and advocacy initiatives at the state and federal levels addressing issues such as the following:

- Legislation adoption of the national surface transportation policy legislation and development of a national goods movement policy
- Passage of the Federal Aviation Administration reauthorization legislation
• Moving forward in efforts to reform the collection and distribution of Harbor Maintenance Taxes (which support the Port’s ongoing dredging program), and addressing the ongoing challenges faced nationwide by airports dependent on staffing provided by U.S. Customs and Border Protection.
• Development of a statewide transportation needs assessment and related revenue strategies to meet these future capital needs.

The Port receives state and federal reports from our Sacramento and Washington, DC contract lobbying firms on a regular basis (Lehman, Levi, Pappas & Sadler and Gephardt Government Affairs, respectively) and we have included the most recent updates from these firms in this report for discussion with the Board. Additionally, we have presented a brief overview and analysis of the current statewide propositions on the November 2012 California ballot and any potential impacts to Port of Oakland operations.

The results of the November 2012 elections may have dramatic effects on the legislative and funding landscapes at both the state and federal levels. As detailed in the accompanying reports, the federal “fiscal cliff” that is looming as a result of the failure of the Congress and the Administration to reach an accord on a long-term deficit and revenue framework and the ongoing state budget crisis will continue to dominate the landscape for the 2013 legislative sessions at both levels. These ongoing budget pressures will certainly have an impact on our business priorities (through the availability of funding for the U.S. Army Corps of Engineers or staffing levels allocated to U.S. Customs and Border Protection for international passenger screening, for example) and a continued focus on alternative revenue sources that the Port may be looked upon to provide to backfill essential services.

We intend to return to the Board after the election, on December 13th, with a “de-brief” on the anticipated impacts of the state and federal election results, and to map out the 2013 legislative and regulatory landscape so as to identify and prioritize key opportunities for additional Port engagement. This report will also include a state and federal legislative and administrative advocacy calendar and identify the key trade, advocacy and governmental stakeholders and partners that will be instrumental in moving the Port’s agenda forward.

Attachments

1) Federal Issues Report (Gephardt Government Affairs)
2) State Issues Report (Lehman, Levi, Pappas & Sadler)
3) Overview of November 2012 Statewide Propositions
Lameduck & “The Fiscal Cliff”

Congress concluded its last pre-election session in September and has now recessed until November 13th. During the short September meeting, both chambers completed action on the deal announced in late July to provide funding for the federal government (with some modest 0.6% spending increases for some programs) for the first six months of the new fiscal year. This means stable funding for federal transportation and trade programs until January 2nd, when automatic budget cuts may take effect. Also in September, as we note in more detail below, the Office of Management and Budget (“OMB”) provided a report providing the first details of these cuts that will occur if sequestration begins to take effect at the start of January 2013.

The November lameduck session will be Congress’ last chance to avoid the impacts of the across the board cuts under sequestration or to at least delay the cuts until next year. Congress will also need to address tax issues in a tax extenders package for expired and expiring tax breaks. This includes the question of whether to further extend the Bush tax cuts in some form, with Republicans arguing for a comprehensive extension and Democrats pushing to extend only those breaks for individuals making less than $250,000 per year. Congress also has a number of other “must pass” bills that will require attention during the lameduck, such as the farm bill (Congress’ failure to pass a farm bill has already led to the expiration of federal agricultural programs. The effect on farmers is not expected to become significant, however, until January).

The results of the election may have a major impact on the willingness of the leaders in both parties to reach a budget and tax deal.

The Elections

At the moment, most election observers believe President Obama is favored to win reelection with a four to six point margin and over 300 electoral votes. That would have
to be considered a solid electoral performance and should give the President some added clout in negotiating with the GOP leadership. Obama has already signaled his willingness to consider some entitlement trims as part of a budget deal, a major concession from the Democratic position.

The Republican hopes for capturing the Senate appear to be fading as the GOP is now unexpectedly playing defense in several seats, such as Indiana and Arizona, and seeing its challengers falling short of expectations in others, including Florida, Ohio and Missouri. At the moment, it would appear a modest one or two seat Republican gain is likely to occur in the Senate (although improving Democratic prospects could lead to no GOP gains or even a one seat pickup by the President’s party.) No changes are expected in the Senate leadership on either side of the aisle.

In the House, modest Democratic gains are now expected in the range of six to twelve seats. Democrats held 193 seats in the current Congress so gains of that size will not take away the Republican’s majority. House Democrats will likely keep their same leaders, but some competition may occur for the lower level leadership positions on the GOP side. The one significant question is whether Speaker Boehner will build any support among the roughly 80 tea party members of his caucus. If these hardcore conservatives continue to object to the Speaker’s consideration of deals with Democrats, the “fiscal cliff” of automatic spending cuts and tax increases may be substantially unavoidable. If Boehner moves too aggressively to push his caucus into a budget deal, it could invite Majority Leader Cantor to finally make his long anticipated move to oust the Speaker.

**Sequestration**

- **Army Corps**

Under the OMB report released in early September, the Administration is anticipating across the board cuts in US Army Corps accounts. The OMB report lists the Army Corps’ $1.8 billion budget for construction projects, and notes a cut by 8.2 percent, or about $150 million. The $2.2 billion Army Corps O&M account is also cut by 8.2 percent, or about $176 million. These cuts are consistent with the across the board for domestic programs. The defense related portions of the Army Corps accounts are cut by roughly 10 percent as are all defense programs.

It has not been announced how the Corps would absorb the cuts, so it is unclear whether they would be allocated across projects as a flat reduction (as Congress has done in the past when across the board trims were made in the appropriations process), or whether the Corps would target certain projects for larger reductions or elimination.

It would probably be to the Port’s advantage is the cuts are targets at specific projects, giving the Army Corps of continuing uninterrupted on priority work like maintaining our 50’ depths in the Port’s channels. If sequestration appears likely later this year (or at some point early next year) we may need to ask our congressional delegation to engage in pressing the Army Corps to fully fund major projects as a priority.
• **Surface Transportation**

The transportation trust fund accounts that provide the money for highway and transit programs are largely exempt from sequestration since they have their own dedicated revenue stream. With the modest increases in funding levels provided by the MAP-21 surface transportation bill passed earlier this Summer, transportation spending should stay level for the next two years. The one major change will occur in the TIFIA program, the federal infrastructure bank program that provides loans and loan guarantees. Under MAP-21, TIFIA funding received a large increase, growing from $122 million per year to over $600 million.

• **Aviation & CBP**

The aviation trust fund that provides money for the Airport Improvement Program ("AIP") is exempt from the across-the-cuts. This means OAK should continue to get its entitlement funds from AIP, as well as continue to pursue discretionary grants when warranted.

When it comes to Customs and Boarder Protection program, however, the cuts are being applied flatly across each budget account. From what we understand this means the staffing accounts are looking at an 8.2% cut starting in January. So an already difficult budget situation for getting additional staff resources may be getting even worse in short order. CBP has not disclosed how specifically the cuts take effect but we assume that CBP will try and cut headquarters and overtime first.

**Water Resource Development Act ("WRDA")**

Senator Boxer, chair of the Senate committee with jurisdiction over water infrastructure, has announced she is beginning work on a new WRDA bill. WRDA is traditionally a biannual bill that Congress passes to authorize Army Corps projects and other water transportation issues. It has been several years since the last bill was passed due to tea party objections to the “pork” projects that make up the bulk of the bill. We are reaching out to Senator Boxer’s staff to relay Oakland’s needs in a WRDA bill. If she proceeds as she current plans, the Senator will potentially have a draft bill prepared to roll out during the lameduck. Expectations are that Boxer is trying to lay the ground work for real action on her WRDA bill early next year in the new Congress.

We have two issues of concern to Oakland to track. First, given the need to ultimately reconstruct substantial portions of OAK’s perimeter levee, we will need Army Corps’ help to complete that project. Projects traditional follow a long planning process prior to becoming eligible for federal construction funds. If we allow such a planning delay here (and also considering the passage of WRDA bills is no longer predictable), we may not be eligible to pursue construction funds for many years after the levee is rated as unacceptable by the Federal Emergency Management Agency (“FEMA”). In addition to meeting directly with FEMA as we have been doing to make certain he still have a long lead time before facing a crisis over the levee’s status, we are also requesting Senator Boxer to place a provision in her WRDA bill directing the Army Corps to rely on the
preliminary planning OAK has already prepared (in cooperation with the local Corps office and using some of the same outside consultants as the Corps.) In effect, we are trying to leap over the planning process and go directly to construction funding.

Our second issue is related to the Harbor Maintenance Trust Fund (“HMT”). The fund is one of the only trust funds currently running a surplus. During tight budget times in Washington, this has made the fund an enticing target for legislators wanting to create jobs or find funds for local water projects. Either through WRDA or the Appropriations process, where Senator Feinstein is taking the lead, efforts are being made to require full expenditure of the trust fund, have minimum returns of revenues collected at an individual port (or alternatively allocated by the state as a whole), and to potentially allow for broader uses of the funds. We recently joined with the AAPA and other ports in a meeting with the United States Trade Representative (“USTR”). The USTR has signaled to Senator Feinstein that expansion of the use of HMT may trigger a trade dispute, since it is widely believed already that the current HMT tax structure violates international trade laws. USTR fears that expanded use of the funds will finally provoke action by the European Union. The agency’s objections are jeopardizing the possible that HMT spending will be increased. AAPA will be having an ongoing dialogue, in which we will participate, with USTR to try and ameliorate the agency’s objections.

**OAK & The CBP**

With further cuts in CBP funding a distinct possibility, the effort to get expanded staffing to support more international service at CBP will be increasingly difficult. The airports, airlines and travel industry have all weighed in on the chronic problems we are all facing due to inadequate staff at CBP. The House and Senate committees with jurisdiction over the CBP are also well aware of the problems, but are quick to note that additional funding is not to be expected in the current budget climate.

To date, we have secured strong support from our delegation, particularly Senator Boxer who has called CBP on OAK’s behalf. The senior management of the agency is well aware of the problem we face with inadequate staff levels, and it was this congressional concern for OAK specifically that led CBP to propose legislation this year to allow airports to enter into reimbursable fee agreements to pay for additional staff and staff overtime. While this proposal offered little benefits to most airports, including OAK, it was at least a sign that CBP is trying to respond to the congressional pressure we have generated.

Going forward, we are continuing to meet with CBP to press for alternatives that will get additional officers to OAK. We will continue to ask our congressional delegation to press CBP for an acceptable solution.

We will also continue to work with ACI-NA, AAAE and other airports to get better information on CBP staffing and to protect line officers from being targeted for cuts in sequestration or any budget deal. The tourism trade association, US Travel, is expected to begin a major push for greater resources for CBP. We have been meeting with US Travel and will soon be meeting with the airline trade association to better coordinate with them on this issue.
Passenger Facility Charge (“PFC”)

The PFC is the primary revenue stream for major airport construction projects. Federal law places a cap on this locally imposed fee and this cap has not been raised in 12 years, and any increase in the fee was not addressed in the federal aviation bill passed earlier this year. Absent waiting several years for the next aviation bill, we have been working in coordination with other leading airports to educate budget and appropriations staffs on the potential benefits of lifting the PFC. We have been arguing that if the cap is raised significantly, medium and large airports could elect to exit the AIP program as a trade-off. In effect, airports would gain an increase in overall revenue by raising the PFC, while the budget negotiators could find a $3 to $10 billion budget savings in reduced AIP costs over 10 years.

During last year’s “Super Committee” efforts to find a budget deal, we succeeded in including a similar provision in the House Democratic proposal. We have been building on that work in an effort to find more congressional supporters for raising the PFC, either in a budget deal or in the next aviation bill.
MEMORANDUM

TO: Port of Oakland

FROM: Scott Sadler – Lehman Levi Pappas & Sadler

DATE: October 1, 2012

RE: State Affairs Report: September 2012

Shore Power Legislation – SB 234
Legislation sponsored by the California Association of Port Authorities was vetoed by Governor Jerry Brown the last week of September. However in his veto message, the Governor directed the California Air Resources Board to implement most of the changes by amending the program guidelines.

After a long and unsuccessful effort to amend the California Air Resources Board (CARB) regulations regarding the Proposition 1B reimbursement rules for the Port’s shore power construction project, we convinced Senator Loni Hancock to introduce SB 234 to make the desired changes legislatively.

SB 234 would have required CARB to reimburse 90% of eligible project costs on a quarterly basis, and holding the final 10% reimbursement until the project was completed. The original CARB guidelines only allowed reimbursement of awarded Prop 1B funds upon full completion of the construction project and deemed operable by a CARB definition of operability.

The CARB scheme required the Port to borrow extra millions of dollars and incur unnecessary interest obligations only because CARB refused to reimburse granted 1B funds on an ongoing basis. Senator Hancock wrote SB 234 to instruct CARB to change their reimbursement regulations to closely copy the reimbursement methods of the CA Transportation Commission and the US Dept. of Transportation.

SB 234 also originally required CARB to change their definition of operability. After the bill was introduced and a dialogue was begun on the legislation, CARB agreed to change this definition through the regulatory process and that section of the bill was no longer needed and amended out of the bill. SB 234 passed the Legislature on August 31, never having received a single NO vote.

In his veto message, the Governor directed CARB to amend their guidelines to allow quarterly reimbursements up to 80% of eligible project costs providing the port expends their match funds first and is in contractual compliance.
We have already initiated a dialogue with CARB requesting they place this topic on their next Board agenda and implement the Governor’s direction immediately.

**Trade Corridor Improvement Fund (TCIF)**
On August 22 the California Transportation Commission (CTC) voted unanimously to accept the Port’s proposed amendment to the TCIF baseline agreement. The CTC agreed with the Port’s assertion that baseline agreement changes were needed to meet the evolving logistics needs of the region. This action preserves $242 million in state funds for the Outer Harbor Intermodal Terminals project.

While the vote was unanimous, this effort was successful because of the coordinated efforts of the Port and the City of Oakland. The Port and the City rallied many third parties to support the proposed amendments. I recommend quarterly updates on the project to these elected and appointed allies in state government, keeping them apprised of the project’s progress as it moves forward.

**Proposition 84 Funds -**
The Port of Oakland was awarded a more than $6.7 million in Local Levee Assistance Program (LLAP) grant funds for the Airport Perimeter Dike Project. Again Senator Loni Hancock was a champion for the Port by contacting the head of the CA State Department of Water Resources directly and advocating for the Port to receive this grant.

**Major State Issues**

**State Budget Update**
In June the Governor and Legislature agreed to $16.6 billion in cuts and other measures to close the state’s budget gap. The solutions include about $6 billion in new revenues, spending cuts of about $5 billion, and $5.6 billion of funds redirected from other sources. Virtually all of the new revenues would be generated by Proposition 30, an initiative the governor qualified for the November ballot that raises income taxes on upper incomes and by increasing the state sales tax. If voters reject the governor’s initiative, there will be $6.1 billion in “trigger” cuts, most of which would be absorbed by K–12 and higher education. The budget does not specify how the remaining $2.4 billion would be absorbed.

Passing Proposition 30 is the Governor’s highest priority. With seven weeks to go, recent independent polling showed Prop. 30 leading with voters 57% Yes to 39% No. Most experts expect the Yes percent to drop and that it will be a very close race.

**Cap and Trade**
CARB has released the Auction Notice for the California Cap-and-Trade Program Greenhouse Gas (GHG) Allowance Auction on November 14, 2012. That auction begins the effort for the state to reach the emission reduction goals set out in AB 32. Until 2015, most affected industries will receive the majority of their allocations from the state for free, but will have to purchase additional allowances or use offset credits to cover all their emissions. There's no cap on individual facilities; the cap is for total emissions statewide for all of a company’s facilities.
Over time the total cap decreases, making allowances scarcer and providing an incentive to find cost-effective ways to cut emissions.

The auctions are expected to generate $1 billion in revenue for the state in the first year and possibly growing to $6 billion. That amount of money has started a heated debate about how to spend them -- with proposals ranging from returning the money to consumers to paying for high-speed rail and energy upgrades at public schools.

There is fear among California businesses that the cost of the program will force companies to move out of state. CARB has recently responded by looking at possibly increasing the number of total credits available, thereby easing the pressure on GHG emitters to comply.

Pension Reform
The Legislature and Governor came to agreement the last week of the legislative session on AB 340 to make reforms to the state’s two main pension funds -- the California Public Employees' Retirement System and the California State Teachers' Retirement System. These two systems combined are currently at least $165 billion underfunded.

AB 340 will require NEW employees to pay half of their retirement benefit’s cost. Some of the most important reforms in the legislation are:

- raises the retirement age of non-public safety employees from 55 to 67 years of age
- ends manipulating overtime, unused vacation and special compensation to spike pensions
- limits “double dipping,” involving retirees who collect benefits and also take another government job
- bans workers from buying service credit to boost their payouts

Proponents predict the bill will save taxpayers as much as $55 billion over 30 years. However, taking the pension funds' savings estimates at face value, there's still about $400 billion in unfunded liabilities for which California taxpayers are responsible.

Election Update
Five weeks remain before the General Election on November 6. The ballot is crowded with 11 statewide initiatives, the Presidential, Congressional, and State Legislative and local races.

The Governor’s tax increase initiative, Proposition 30, is the most closely watched. This would increase the personal income tax on Californian’s making over $250,000 and the state sales tax for seven years. The Governor is campaigning hard to pass the measure. Publicly available polling has the measure hovering between 54% and 57% support.

If Prop. 30 fails, automatic trigger cuts will take place resulting in a $6.1 billion cut to K-14 public education. The remaining $2.3 billion in cuts are not prescribed but will need to be made by the Legislature.
Other propositions on the ballot include 2 other tax increase measures as well as abolition of California’s 3-Strikes law and the death penalty.

State legislative elections are being conducted under new election rules for first time. New districts were drawn earlier this year, as they are after every national census, and the first election was held in June under the new “Top Two Primary” rules. These rules place the two candidates receiving the most votes in the Primary against each other in the General election regardless of party affiliation. The general election will have 22 races with candidates from the same party on the ballot.

Another potential outcome impacting the state is the chance the State Senate and Assembly elect a super-majority of Democrats. The Senate and Assembly both only need to pick up 2 seats to have the Democratic Party hold a super-majority in each house. This is significant because it takes a super-majority of 2/3 votes in each house to raise taxes. If the Governor’s Proposition 30 fails on Election Day, taxes could be raised by the Democrats in the Legislature.

Pre-2013 Legislative Session

Speaker John Perez announced there would not be a Special Session called in November if Proposition 30 fails. They do not believe they could pass new taxes in the Legislature after the public just rejected them at the ballot box.

This would mean budget deficits would continue to dominate the agenda in Sacramento.

There will be 34 Freshmen Assembly members who now have new term limits of 12 years in either house. This will bring some stability, although many Assembly members will continue to attempt moving up to the State Senate if the opportunity arises. There will be 10 new State Senators in January with most of them likely coming from the Assembly.

If Proposition 30 fails in November, it would create a leverage point to gain significant regulatory reform in exchange for new revenues voted in with bi-partisan support.
MEMORANDUM

TO: Isaac Kos-Read, Director of External Affairs
FROM: Matt Davis, Government Affairs Manager
DATE: October 1, 2012
RE: Summary of November 2012 Statewide Ballot Measures

OVERVIEW
There are eleven propositions scheduled for the November 2012 statewide ballot, with a previously-authorized statewide water bond having been moved to the 2014 November ballot.

Below is a summary of the various ballot items with any potential direct impacts to the Port of Oakland identified.

PROPOSITION 30
Title: Temporary Taxes to Fund Education. Guaranteed Local Public Safety Funding. Initiative Constitutional Amendment (AKA “The Governor’s Tax Plan”)

Summary: The measure would increase personal income tax on annual earnings over $250,000 for seven years and sales and use tax by ¼ cent for four years. It would allocate temporary tax revenues (89 percent to K-12 schools and 11 percent to community colleges). It bars the use of funds for administrative costs, but provides local school governing boards the discretion to decide, in open meetings and subject to annual audit, how funds are to be spent. Guarantees funding for public safety services realigned from state to local governments.

Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Increased state revenues over the next seven fiscal years. Estimates of the revenue increases vary—from $6.8 billion to $9 billion for 2012-13 and from $5.4 billion to $7.6 billion, on average, in the following five fiscal years, with lesser amounts in 2018-19. These revenues would be available to (1) pay for the state's school and community college funding requirements, as increased by this measure, and (2) address the state's budgetary problem by paying for other spending commitments. Limitation on the state's ability to make changes to the programs and revenues shifted to local governments in 2011, resulting in a more stable fiscal situation for local governments.

Impact to Port of Oakland: No direct impact. If proposition does not pass, increased structural pressures on the state’s fiscal situation could lead policy makers to look for increased regional, local, and/or private revenue to address statewide spending commitments.

PROPOSITION 31
Title: State Budget. State and Local Government. Initiative Constitutional Amendment and Statute.

Summary: Establishes two-year state budget cycle. Prohibits Legislature from creating expenditures of more than $25 million unless offsetting revenues or spending cuts are identified. Permits Governor to cut budget unilaterally during declared fiscal emergencies if Legislature fails to act. Requires performance reviews of all state programs. Requires performance goals in state and local budgets. Requires publication of all bills at least three days prior to legislative vote. Gives counties power to alter state statutes or regulations related to spending unless Legislature or state agency vetoes changes within 60 days.

Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Decreased state revenues and commensurate increased local revenues, probably in the range of about $200 million annually, beginning in 2013-14. Potential decreased state program costs or increased state revenues resulting from changes in the fiscal authority of the Legislature and Governor. Increased state and local costs of tens of millions of dollars annually to implement new budgeting practices. Over time, these costs would moderate and potentially be offset by savings from improved program efficiencies.

Impact to Port of Oakland: No direct impact. Should a state fiscal emergency be declared in the future, the Governor could potentially unilaterally cut state funding sources that the Port of Oakland is utilizing (i.e. the Proposition 1B Trade Corridor Improvement Fund), among other state-funded priorities.

PROPOSITION 32
Title: Prohibits Political Contributions by Payroll Deduction. Prohibitions on Contributions to Candidates. Initiative Statute. (AKA “Paycheck Protection”)

Summary: Restricts union political fundraising by prohibiting use of payroll-deducted funds for political purposes. Same use restriction would apply to payroll deductions, if any, by corporations or government contractors. Permits voluntary employee contributions to employer or union committees if authorized yearly, in writing. Prohibits unions and corporations from contributing directly or indirectly to candidates and candidate-controlled committees. Other political expenditures remain unrestricted, including corporate expenditures from available resources not limited by payroll deduction prohibition. Limits government contractor contributions to elected officers or officer-controlled committees.

Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Increased state implementation and enforcement costs of up to hundreds of thousands of dollars annually, potentially offset in part by revenues from fines.
Impact to Port of Oakland: The Port of Oakland (along with any other employer in the state that has employees that are represented by labor unions that currently utilize payroll deductions) could be impacted through increased administrative and/or personnel costs that may be involved in the yearly authorization of existing payroll deductions for represented employees that meet the proposed use restrictions.

PROPOSITION 33
Title: Changes Law to Allow Auto Insurance Companies to Set Prices Based on a Driver's History of Insurance Coverage. Initiative Statute.

Summary: Changes current law to permit insurance companies to set prices based on whether the driver previously carried auto insurance with any insurance company. Allows insurance companies to give proportional discounts to drivers with some prior insurance coverage. Will allow insurance companies to increase cost of insurance to drivers who have not maintained continuous coverage. Treats drivers with lapse as continuously covered if lapse is due to military service or loss of employment, or if lapse is less than 90 days.

Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Probably no significant fiscal effect on state insurance premium tax revenues.

Impact to Port of Oakland: None identified.

PROPOSITION 34
Title: Death Penalty Repeal. Initiative Statute.

Summary: Repeals death penalty as maximum punishment for persons found guilty of murder and replaces it with life imprisonment without possibility of parole. Applies retroactively to persons already sentenced to death. Requires persons found guilty of murder to work while in prison, with their wages to be applied to any victim restitution fines or orders against them. Creates $100 million fund to be distributed to law enforcement agencies to help solve more homicide and rape cases.

Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Net savings to the state and counties that could amount to the high tens of millions of dollars annually on a statewide basis due to the elimination of the death penalty. One-time state costs totaling $100 million from 2012-13 through 2015-16 to provide funding to local law enforcement agencies.

Impact to Port of Oakland: None identified.

PROPOSITION 35
Title: Human Trafficking. Penalties. Sex Offender Registration. Initiative Statute.
Summary: Increases criminal penalties for human trafficking, including prison sentences up to 15-years-to-life and fines up to $1,500,000. Fines collected to be used for victim services and law enforcement. Requires person convicted of trafficking to register as sex offender. Requires sex offenders to provide information regarding Internet access and identities they use in online activities. Prohibits evidence that victim engaged in sexual conduct from being used against victim in court proceedings. Requires human trafficking training for police officers.

Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Potential one-time local government costs of up to a few million dollars on a statewide basis, and lesser additional costs incurred each year, due to the new mandatory training requirements for certain law enforcement officers. Minor increase to state and local governments on the costs of incarcerating and supervising human trafficking offenders. Unknown amount of additional revenue from new criminal fees, likely not to exceed the low millions of dollars annually, which would fund services for human trafficking victims.

Impact to Port of Oakland: None identified.

PROPOSITION 36
Title: Three Strikes Law. Sentencing for Repeat Felony Offenders. Initiative Statute.

Summary: Revises three strikes law to impose life sentence only when new felony conviction is serious or violent. Authorizes re-sentencing for offenders currently serving life sentences if third strike conviction was not serious or violent and judge determines sentence does not pose unreasonable risk to public safety. Continues to impose life sentence penalty if third strike conviction was for certain non-serious, non-violent sex or drug offenses or involved firearm possession. Maintains life sentence penalty for felons with non-serious, non-violent third strike if prior convictions were for rape, murder, or child molestation.

Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: State savings related to prison and parole operations that potentially range in the high tens of millions of dollars annually in the short run, possibly exceeding $100 million annually in the long run. Increased state and county costs in the millions to low tens of millions of dollars annually in the first few years, likely declining substantially in future years, for state court activities and county jail, community supervision, and court-related activities.

Impact to the Port of Oakland: None identified.

PROPOSITION 37

Summary: Requires labeling on raw or processed food offered for sale to consumers if made from plants or animals with genetic material changed in specified ways.
Prohibits labeling or advertising such food as “natural.” Exempts foods that are: certified organic; unintentionally produced with genetically engineered material; made from animals fed or injected with genetically engineered material but not genetically engineered themselves; processed with or containing only small amounts of genetically engineered ingredients; administered for treatment of medical conditions; sold for immediate consumption such as in a restaurant; or alcoholic beverages.

Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Potential increase in state administrative costs of up to one million dollars annually to monitor compliance with the disclosure requirements specified in the measure. Unknown, but potentially significant, costs for the courts, the Attorney General, and district attorneys due to litigation resulting from possible violations to the provisions of this measure.

Impact to the Port of Oakland: None identified

PROPOSITION 38
Title: Tax for Education and Early Childhood Programs. Initiative Statute. (AKA “The Molly Munger Tax Plan”)

Summary: Increases personal income tax rates for annual earnings over $7,316 using sliding scale from .4% for lowest individual earners to 2.2% for individuals earning over $2.5 million, ending after twelve years. During first four years, 60% of revenues go to K-12 schools, 30% to repaying state debt, and 10% to early childhood programs. Thereafter, allocates 85% of revenues to K-12 schools, 15% to early childhood programs. Provides K-12 funds on school specific, per-pupil basis, subject to local control, audits, and public input. Prohibits state from directing or using new funds.

Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: Increased state personal income tax revenues beginning in 2013 and ending in 2024. Estimates of the revenue increases vary from $10 billion to $11 billion per fiscal year beginning in 2013-14, tending to increase over time. The 2012-13 revenue increase would be about half this amount. Until the end of 2016-17, 60 percent of revenues would be dedicated to K-12 education and 10 percent would be provided to early care and education programs. These allocations would supplement existing funding for these programs. In 2017-18 and subsequent years, 85 percent would be provided to K-12 education and 15 percent to early care and education. General Fund savings on debt-service costs of about $1.5 billion in 2012-13 and $3 billion in 2013-14, with savings tending to grow thereafter until the end of 2016-17. In 2015-16 and subsequent years with stronger growth in state personal income tax revenues, some of the revenues raised by this measure—several hundred million dollars per year—would be used for debt-service costs, resulting in state savings.

Impact to the Port of Oakland: Like Proposition 30, failure to stabilize the structural pressures on the state’s fiscal situation could lead policy makers to look for
increased regional, local, and/or private revenue to address statewide spending commitments.

**PROPOSITION 39**

*Title:* Tax Treatment for Multistate Businesses. Clean Energy and Energy Efficiency Funding.

*Summary:* Requires multistate businesses to calculate their California income tax liability based on the percentage of their sales in California. Repeals existing law giving multistate businesses an option to choose a tax liability formula that provides favorable tax treatment for businesses with property and payroll outside California. Dedicates $550 million annually for five years from anticipated increase in revenue for the purpose of funding projects that create energy efficiency and clean energy jobs in California.

*Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government:* Approximately $500 million in additional state General Fund revenues in 2012-13 and $1 billion each year thereafter from requiring a single sales factor formula for corporate taxes, with about half of the additional annual revenues from 2013-14 through 2017-18 supporting energy efficiency and alternative energy projects. Increased Proposition 98 minimum funding guarantee for K-14 schools of roughly $225 million annually from 2012-13 through 2017-18 and by roughly $500 million each year thereafter, as a result of additional state General Fund revenues.

*Impact to the Port of Oakland:* The anticipated revenue increases under the revised formula are directed in part to energy efficiency and clean energy programs that would be administered at the local level – most of the author’s intended goals are for energy efficiency programs of universities, schools, and other public buildings, which could potentially include Port-owned properties. Conversely, as the Port of Oakland largely has tenants and customers that do business among multiple states, it is unclear if this new tax treatment could serve as a disincentive to existing and/or future trade and commerce activities that the Port of Oakland relies on for funding.

**PROPOSITION 40**

*Title:* Redistricting. State Senate Districts. Referendum.

*Summary:* State Senate districts are revised every ten years following the federal census. This year, the voter-approved California Citizens Redistricting Commission revised the boundaries of the 40 Senate districts. This referendum petition, if signed by the required number of registered voters and filed with the Secretary of State, will: (1) Place the revised State Senate boundaries on the ballot and prevent them from taking effect unless approved by the voters at the next statewide election; and (2) Require court-appointed officials to set interim boundaries for use in the next statewide election.
Summary of estimate by Legislative Analyst and Director of Finance of fiscal impact on state and local government: If the voters vote “yes” and approve the Senate district maps certified by the commission, there would be no effect on state or local governments. If the voters vote “no” and reject the Senate district maps certified by the commission, the California Supreme Court would appoint special masters to establish new Senate district boundaries. This would result in a one-time cost to the state of about $500,000. In addition, counties would incur one-time costs of about $500,000 statewide to develop new precinct maps and related election materials for the districts.

Impact to the Port of Oakland: None identified
CONSENT ITEMS

Action by the Board under “Consent 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. Consent Items may be removed for further discussion by the Board at the request of any member of the Board.
MINUTES

Regular Meeting of the Board of Port Commissioners
Thursday September 20, 2012

ROLL CALL

President Gonzales called the Regular Meeting of the Board to order at 1:02 p.m., and the following Commissioners were in attendance:

1st Vice President Head, 2nd Vice-President Yee, Commissioner Butner, Commissioner Hamlin, Commissioner Parker, Commissioner Uno and President Gonzales.

President Gonzales convened the Board in Closed Session at 1:03 p.m. to hear the following:

1. CLOSED SESSION

1.1 CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION. Pursuant to Subdivision (a) of California Government Code Section 54956.9.

SSA Terminals, LLC and SSA Terminals (Oakland), LLC v. the City of Oakland, Acting by and Through its Board of Port Commissioners Docket No. 09-08

1.2 CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION. Significant Exposure to Litigation Pursuant to Subdivision (b) of California Government Code Section 54956.9: 5 matter(s)

1.3 PUBLIC EMPLOYEE APPOINTMENT

Title: Port Attorney

1.4 PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Titles: Executive Director, Port Auditor, Board Secretary
1.5 CONFERENCE WITH LABOR NEGOTIATORS. Pursuant to Subdivision (a) of California Government Code Section 54957.6.

Employee Organizations: International Brotherhood of Electrical Workers (IBEW Local 1245), International Federation of Professional and Technical Engineers (IFPTE Local 21), Service Employees International Union (SEIU Local 1021), and Western Council of Engineers (WCE)

ROLL CALL/OPEN SESSION (approximately 4:00 p.m.)

President Gonzales called the Open Session to order at 4:18 p.m., and the following Commissioners were in attendance:

1st Vice President Head, 2nd Vice-President Yee, Commissioner Butner, Commissioner Hamlin, Commissioner Parker, Commissioner Uno and President Gonzales.

CLOSED SESSION REPORT

There were no Items to report out of Close Session.

2. MAJOR PROJECTS

Port Engineer Chris Chan and Angela Yuen, Port Principal Programmer/Analyst, gave an update on the Enterprise Resource Management Project (ERP)

2.1 Report: ERP Update (Engineering)

3. BUDGET & FINANCE

There were no “Budget & Finance” issues.

4. STRATEGY & POLICY

Alameda County Transportation Commission, Executive Director, Arthur Dao reported on Item 4.1 and the upcoming Ballot Measure (B-1) which would double the transportation sales tax from ½ cent to 1cent to fund a new Transportation Expenditure Plan for Alameda County

4.1 Report: Alameda County Transportation Commission, presentation regarding the Transportation Expenditure Plan (Government Affairs)

On a motion by Vice-President Uno, seconded by Commissioner Hamlin the board unanimously approved (7 ayes) the Port’s support for Measure B-1.
Deputy Executive Director, Jean Banker, and Jake Sloan of Daviler-Sloan, Inc., reported on Item 4.2

4.2 Report: MAPLA Progress Report for June 1, 2011 through June 30, 2012 (SRD)

5. CONSENT ITEMS

The Board Secretary introduced the Consent Items.

A Motion to approve the Consent Items was made by Vice-President Head and seconded by Commissioner Hamlin.

5.1 Authorization of Grant of Easement with East Bay Municipal Utility District (Aviation)

5.2 Amendment to Temporary Rental Agreement with DeSilva Gates Construction (Aviation)

5.3 Report: Executive Director Awards of Recent Public Works and Professional Services Contracts (Engineering)

The Motion to approve the Consent Items passed by the following votes: (7) Ayes: 1st Vice President Head, 2nd Vice-President Yee, Commissioner Butner, Commissioner Hamlin, Commissioner Parker, Commissioner Uno and President Gonzales.

6. REMAINING ACTION ITEMS

Aviation Director, Deborah Ale-Flint, presented Items 6.1 and 6.2.

A Motion to approve the Item 6.1 was made by Vice-President Head and seconded by Commissioner Parker.

Bill Dabney addressed the Board on Item 6.1.

6.1 Request for Authorization to enter into Other Transaction Agreement (OTA) with the Transportation Security Administration relating to Checked Baggage Recapitalization Screening Design Services. (Aviation)

The Motion to approve Item 6.1 passed by the following votes: (7) Ayes: 1st Vice President Head, 2nd Vice-President Yee, Commissioner Butner, Commissioner Hamlin, Commissioner Parker, Commissioner Uno and President Gonzales.

A Motion to approve the Item 6.2 was made by Vice-President Head and seconded by Vice-President Yee.
6.2 Authorization to execute a Professional Services Agreement with Harris Miller of Miller & Hanson, Inc. to provide aviation-related acoustical consulting services for an amount not to exceed $375,000 in support of the Noise and Environmental Compliance Office for five years. (Aviation)

The Motion to approve Item 6.2 passed by the following votes: (7) Ayes: 1st Vice President Head, 2nd Vice-President Yee, Commissioner Butner, Commissioner Hamlin, Commissioner Parker, Commissioner Uno and President Gonzales.

Chief Financial Officer, Sara Lee, introduced Item 6.3.

A Motion to approve the Item 6.3 was made by Vice-President Yee and seconded by Vice-President Head.

6.3 Authorization to enter into a Two-Year contract with up to Two Extensions for a Total of Five Years with Aramark Uniform Services for the Port’s Uniform Rental and Laundry Service Needs (Aviation, Maritime, Finance)

The Motion to approve Item 6.3 passed by the following votes: (7) Ayes: 1st Vice President Head, 2nd Vice-President Yee, Commissioner Butner, Commissioner Hamlin, Commissioner Parker, Commissioner Uno and President Gonzales.

7. UPDATES/ANNOUNCEMENTS

Executive Director, Omar Benjamin, reported on the “Eat Real” Festival in Jack London Square.

8. SCHEDULING

There were no “scheduling” item to report.

OPEN FORUM

There were no speakers in Open Forum.

ADJOURNMENT

There being no additional business the Board adjourned at 5:47 p.m.

__________________________________________
John Betterton, Secretary
Board of Port Commissioners

____________________________ _________________
Date
Board of Port Commissioners
AGENDA

Regular Meeting of the Board of Port Commissioners
Thursday October 4, 2012 – 1:00 p.m.

ROLL CALL

President Gonzales called the Regular Meeting of the Board to order at 1:06 p.m., and the following Commissioners were in attendance:

1st Vice President Head, 2nd Vice-President Yee, Commissioner Butner, Commissioner Hamlin, Commissioner Parker, Commissioner Uno and President Gonzales.

President Gonzales convened the Board in Closed Session at 1:07 p.m. to hear the following:

1. CLOSED SESSION

1.1 CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION. Pursuant to Subdivision (a) of California Government Code Section 54956.9.

SSA Terminals, LLC and SSA Terminals (Oakland), LLC v. the City of Oakland, Acting by and Through its Board of Port Commissioners Docket No. 09-08

Kheven LaGrone v. City of Oakland et al., and Port of Oakland Court of Appeal of the State of California, First Appellate District, Case Nos.: A130030, A129306

1.2 CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION. Significant Exposure to Litigation Pursuant to Subdivision (b) of California Government Code Section 54956.9: 6 matter(s)

1.3 PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Titles: Executive Director, Port Auditor, Board Secretary
1.4 CONFERENCE WITH LABOR NEGOTIATORS. Pursuant to Subdivision (a) of California Government Code Section 54957.6.

Employee Organizations: International Brotherhood of Electrical Workers (IBEW Local 1245), International Federation of Professional and Technical Engineers (IFPTE Local 21), Service Employees International Union (SEIU Local 1021), and Western Council of Engineers (WCE)

ROLL CALL/OPEN SESSION

President Gonzales called the Open Session to order at 4:18 p.m., and the following Commissioners were in attendance:

1st Vice President Head, 2nd Vice-President Yee, Commissioner Butner, Commissioner Hamlin, Commissioner Parker, Commissioner Uno and President Gonzales.

CLOSED SESSION REPORT

There were no Items to report out of Close Session.

Bill Aboudi addressed the Board on Item 1.1

2. MAJOR PROJECTS

Items 2.1 and 2.2 were pulled.

Bill Aboudi addressed the Board on Item 2.1.

2.1 PULLED Project Status Report: Oakland Army Base (Maritime)

2.2 PULLED Budget Authorization and Related Approvals to Construct the Outer Harbor Intermodal Terminal Railyard, Phase 1, at the Former Oakland Army Base (Maritime/Engineering)

3. BUDGET & FINANCE

Chief Financial Officer Sara Lee reported on Items 3.1 and 3.2.

3.1 Unaudited Financial Results for the 12 months ending June 30, 2012

3.2 Unaudited Capital Expenditures for the 12 months ending June 30, 2012
4. STRATEGY & POLICY

Port Attorney, Michele Heffes, introduced Item 4.1.

A Motion to approve the Item 4.1 was made by Vice-President Yee and seconded by Commissioner Uno.

4.1 Approval of an Ordinance to Amend the By-Laws and Administrative Rules (“By-Laws”) of the Board of Port Commissioners (“Board”)

The Motion to approve Item 4.1 passed by the following votes: (7) Ayes: 1st Vice President Head, 2nd Vice-President Yee, Commissioner Butner, Commissioner Hamlin, Commissioner Parker, Commissioner Uno and President Gonzales.

5. CONSENT ITEMS

The Board Secretary introduced the Consent Items.

A Motion to approve the Consent Items was made by Vice-President Head and seconded by Vice-President Yee.

5.1 Approval Of The Minutes Of The Regular Meetings Of September 6, 2012 and September 13, 2012. (Board Secretary)

5.2 Building Permit Application: Hertz Corporation - Reconfigure exit lanes, $175,000 (Engineering)

5.3 Building Permit Application: Hertz Corporation - Upgrade wireless communication system, $69,000 (Engineering)

5.4 Building Permit Application: Ports America - Upgrade of wireless communication system, $485,000 (Engineering)

5.5 Building Permit Application: Ports America - Installation of back-up generators, $625,000 (Engineering)

5.6 Building Permit Application: Andale Restaurant - Tenant Improvements, $60,000 (Engineering)

The Motion to approve the Consent Items passed by the following votes: (7) Ayes: 1st Vice President Head, 2nd Vice-President Yee, Commissioner Butner, Commissioner Hamlin, Commissioner Parker, Commissioner Uno and President Gonzales.
6. REMAINING ACTION ITEMS

Aviation Director, Deborah Ale-Flint, presented Items 6.1.

A Motion to approve the Item 6.1 was made by Vice-President Head and seconded by Commissioner Parker.

6.1 Approval and Authorization for Execution of Fifth Supplemental Lease Agreement to Ground Lease with United States of America, Department of Transportation, Federal Aviation Administration (Aviation)

The Motion to approve Item 6.1 passed by the following votes: (7) Ayes: 1st Vice President Head, 2nd Vice-President Yee, Commissioner Butner, Commissioner Hamlin, Commissioner Parker, Commissioner Uno and President Gonzales.

A Motion to approve the Item 6.2 was made by Vice-President Yee and seconded by Commissioner Uno.

Commissioner Butner was recused on Item 6.2 and did not take part in the question or decision on the Item.

6.2 Approval of a License and Concession Agreement with Brotzeit-Lokal, LLC for Premises Located at 1000 Embarcadero Road, Oakland (CRE)

The Motion to approve Item 6.2 passed by the following votes: (6) Ayes: 1st Vice President Head, 2nd Vice-President Yee, Commissioner Hamlin, Commissioner Parker, Commissioner Uno and President Gonzales; (1) Recused: Commissioner Butner.

The Director of Administration, Denyce Holsey, introduced Item 6.3.

A Motion to approve the Item 6.3 was made by Commissioner Uno and seconded by Vice-President Head.

6.3 Cancellation of Aviation Facilities Maintenance Manager Eligible List (Administration)

The Motion to approve Item 6.3 passed by the following votes: (7) Ayes: 1st Vice President Head, 2nd Vice-President Yee, Commissioner Butner, Commissioner Hamlin, Commissioner Parker, Commissioner Uno and President Gonzales.

7. UPDATES/ANNOUNCEMENTS

The Board Secretary announced the Special Meetings of October 5th and 6th.

8. SCHEDULING

There were no scheduling items.
OPEN FORUM

Bill Aboudi and Amana Harris addressed the Board in Open Forum.

ADJOURNMENT

There being no additional business the Board adjourned at 5:07 p.m.

____________________________ _________________
John Betterton, Secretary Date
Board of Port Commissioners
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BOARD OF PORT COMMISSIONERS
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GILDA GONZALES
President
JAMES W. HEAD
First Vice-President
ALAN S. YEE
Second Vice-President
CESTRA BUTNER
Commissioner
EARL HAMLIN
Commissioner
BRYAN R. PARKER
Commissioner
VICTOR UNO
Commissioner

MINUTES

Special Meeting of the Board of Port Commissioners
Friday & Saturday, October 5th & 6th, 2012 – 8:30 a.m.
Waterfront Plaza Hotel -10 Washington Street – Oakland, CA 94607

The President of the Board called a two-day Special Meeting which took place at the Waterfront Plaza Hotel in Jack London Square. The meeting was to consider the appointment of a Port Attorney.

DAY 1 (October 5th)

ROLL CALL

President Gonzales called the Special Meeting of the Board to order at 8:47 p.m., and the following Commissioners were in attendance:

1st Vice President Head, 2nd Vice-President Yee, Commissioner Butner, Commissioner Hamlin, Commissioner Parker, Commissioner Uno and President Gonzales.

OPEN FORUM

There were no members of the Public present when the Board Secretary called for speakers for Open Forum.

President Gonzales convened the Board in Closed Session at 8:47 to hear the following:

1. CLOSED SESSION

1.1 PUBLIC EMPLOYEE APPOINTMENT

Title: Port Attorney
OPEN FORUM

There were no members of the Public present when the Board Secretary called for speakers for Open Forum.

RECESS

President Gonzales recessed the 1st meeting at 4:10 p.m.

DAY 2 (October 6th)

ROLL CALL

President Gonzales called the Special Meeting of the Board to order at 8:50 a.m., and the following Commissioners were in attendance:

1st Vice President Head, 2nd Vice-President Yee, Commissioner Butner, Commissioner Hamlin, Commissioner Parker, Commissioner Uno and President Gonzales.

OPEN FORUM

There were no members of the Public present when the Board Secretary called for speakers for Open Forum.

1. CLOSED SESSION

President Gonzales convened the Board in Closed Session at 8:51 p.m. to hear the following:

1.1 PUBLIC EMPLOYEE APPOINTMENT

Title: Port Attorney

CLOSED SESSION REPORT

There were no Items to report out of Closed Session.

OPEN FORUM

There were no members of the Public present for Open Forum.

ADJOURNMENT

There being no additional business the Board adjourned at 3:40 p.m.

____________________________ _________________
John Betterton, Secretary Date
Board of Port Commissioners
PORT ORDINANCE NO. 4203

ORDINANCE APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A GRANT OF EASEMENT TO THE EAST BAY MUNICIPAL UTILITY DISTRICT (“EBMUD”).

WHEREAS the Board of Port Commissioners of the City of Oakland (“Board”) has reviewed and evaluated the Agenda Report for Agenda Item 5.1, dated September 20, 2012 (the “Agenda Report”) and related agenda materials, has received the expert testimony of Port of Oakland (“Port”) staff, and has provided opportunities for and taken public comment; now, therefore

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

Section 1. In acting upon this matter, the Board has exercised its independent judgment based on substantial evidence in the record and adopts and relies upon the facts, data, analysis, and findings set forth in the Agenda Report and in related agenda materials and in testimony received.

Section 2. The Board hereby finds and determines that it is in the best interest of the Port to approve and authorize the Executive Director of the Port or his designee to execute the Grant of Easement to the East Bay Municipal Utility District (“EBMUD”) for water transmission lines running through a portion of Ron Cowan Parkway (“Grant of Easement”) as more fully described in the Agenda Report.

Section 3. The Board hereby finds and determines that the Grant of Easement is exempt from the environmental review requirement pursuant to the California Environmental Quality Act (“CEQA”) Guidelines.

Section 4. This ordinance approves and authorizes the execution of an easement in accordance with the terms of this ordinance. Unless and until a separate written instrument is duly executed on behalf of the Board as authorized by this ordinance, is signed and approved as to form and legality by the Port Attorney, and is recorded on title, there shall be no valid or effective easement.

The Board of Port Commissioners, Oakland, California, September 20, 2012. Passed to print for one day by the following vote: Ayes: Commissioners Butner, Hamlin, Head, Parker, Uno, Yee and President Gonzales – 7. Noes: 0.

John T. Betterton
Secretary of the Board
SUMMARY SHEET for PERMIT APPLICATION
(This Summary Agenda Sheet to be used for ALL permits in this category for which Board approval is recommended.)

DATE: October 1, 2012 PORT PERMIT NO: 4976

BUILDING PERMIT APPLICATION:
- New Construction
- Demolition
- X Addition
- X Alteration
- Repair
- Other, Tank

PORT TENANT:
Ports America Outer Harbor Terminal, LLC.

PERMIT APPLICANT:
St. Francis Electric for Ports America

LOCATION OF PROPOSED WORK:
1599 Maritime Street, Berth 24

BRIEF DESCRIPTION OF PROPOSED WORK: Installation of a shore power distribution and delivery system to serve ships at Berth 24. Work will include connection to an existing Port electrical substation served by PG&E power, installation of conduits for electrical distribution to docked ships, and installation of portable equipment for ship connection. The shore power project as described in the Port building permit application is consistent with the project description in the Maritime Utilities Upgrade Project IS/ND, so no additional environmental analysis is required. Pursuant to CEQA, a Notice of Determination will be filed with the County of Alameda.

Construction and operation of shore power facilities at all container terminals located at the Port of Oakland, including at Berth 24 (part of the Ports America terminal), is part of the Maritime Utilities Upgrade Project that was evaluated under the California Environmental Quality Act (CEQA). The Port prepared an Initial Study (IS) to determine if the Maritime Utilities Upgrade Project, which also included construction and operation of a perimeter intrusion detection security system in the seaport area, would have any significant environmental impacts. The IS identified no potential significant impacts. Consequently, the Port determined that an Environmental Impact Report was not required and issued a draft proposed Negative Declaration (ND). The Board of Port Commissioners adopted the Final IS/ND on May 18, 2010, by Resolution No. 10-56. Although no potential significant impacts were identified, all selected project contractors must adhere to the construction project Best Management Practices and guidelines identified in the adopted Final IS/ND.

SCHEDULED FOR BOARD ACTION: Date: October 18, 2012 VALUATION OF WORK: $ 3,200,000.

FROM: PORT PERMITS, ENGINEERING SERVICES DEPARTMENT

ROUTE TO: (Please sign and send to next on list ASAP)

(1) PORT ENVIRONMENTAL ASSESSMENT SUPERVISOR, ENVIRONMENTAL PLANNING DEPARTMENT

(2) DIRECTOR OF ENGINEERING

(3) EXECUTIVE DIRECTOR

(4) PORT PERMITS - ENGINEERING SERVICES DEPARTMENT:

BOARD APPROVAL: Resolution No: Date:
RESOLUTION APPROVING BUILDING PERMIT REQUESTED BY PORTS AMERICA OUTER HARBOR TERMINAL, LLC.

RESOLVED, that in reliance upon the representations and certifications set forth upon and submitted with an application by PORTS AMERICA OUTER HARBOR TERMINAL, LLC ("tenant") for a building permit to perform certain work at 1599 Maritime Street, Berth 24, Oakland, California, the Board of Port Commissioners ("Board") hereby approves same subject to said representations and certifications at an estimated cost of $3,200,000, said work and applicable conditions of Port of Oakland ("Port") approval including the following:

1) Installation of a shore power distribution and delivery system to serve ships at Berth 24. Work will include connection to an existing Port electrical substation served by PG&E power;

2) Installation of conduits for electrical distribution to docked ships;

3) Installation of portable equipment for ship connection; and

4) Compliance with all of the terms and conditions of Ports America Outer Harbor Terminal, LLC's Concession and Lease and other applicable agreements with the Port;

and be it

FURTHER RESOLVED, pursuant to California Environmental Quality Act ("CEQA), a Notice of Determination will be filed with the County of Alameda; and be it
FURTHER RESOLVED, that (a) neither this resolution nor the Board’s approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to applicant under any agreement between the Port and the applicant or with respect to any obligation of applicant, or (ii) releases applicant from any obligation with respect to said work or with respect to any agreement between the Port and applicant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.
AGENDA REPORT

TITLE: Budget Approval and Other Associated Authorizations for the Construction of a Large Vehicle Wash Rack, North Field, OAK

AMOUNT: $455,000

PARTIES INVOLVED:

<table>
<thead>
<tr>
<th>Corporate Name/Principal</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mead &amp; Hunt – Design Consultant</td>
<td>133 Aviation Boulevard, Suite 100 Santa Rosa, CA 95403</td>
</tr>
<tr>
<td>TBD – Construction Contractor</td>
<td></td>
</tr>
</tbody>
</table>

TYPE OF ACTION: Resolution

SUBMITTED BY: Deborah Ale Flint, Director of Aviation

Chris Chan, Director of Engineering

APPROVED BY: Omar Benjamin, Executive Director

EXECUTIVE SUMMARY

The purpose of this Agenda Report is to outline and recommend to the Board of Port Commissioners (Board) six actions associated with the construction of a Large Vehicle Wash Rack, North Field, Oakland International Airport (OAK):

1. Authorize the project budget of $455,000;
2. Authorize the Director of Engineering to Approve Plans and Project Manual;
3. Authorize inclusion of this project in the Port’s Small Business Program;
4. Authorize waiver of standard bidding procedures and authorize the Executive Director to execute a contract with a Port-certified small business enterprise (SBE) contractor who submits an acceptable bid for the construction of a Large Vehicle Wash Rack in an amount not to exceed $200,000;
5. Authorize the Executive Director to execute a contract for this work with any qualified contractor, based on informal bids, if the attempt to secure an acceptable bid from a SBE contractor is not successful; and
6. Authorize the Executive Director to resolve any bid protests.

Construction of the wash rack will enable the Port of Oakland to comply with the Clean Water Act by diverting wash water from the storm drain system. Staff reviewed four project alternatives. The selected project alternative accomplishes compliance in the most efficient manner at the lowest cost.

FACTUAL BACKGROUND
The Port of Oakland constructed a new Airport Maintenance facility (Jerry Bizzle Maintenance Complex) in late 2003. However, the wash rack built in this complex is too small for cleaning the larger vehicles in the Airport Facilities fleet. Tractors with mounted accessories such as lawn mowing attachments, street sweepers, garbage trucks and end dumps all are not easily accommodated by the existing wash rack. Current cleaning practices vary by user; sometimes this ends up introducing wash water into the storm sewer system.

ANALYSIS

The Large Vehicle Wash Rack planning and design process considered various locations and wash operation options. The proposed location and wash rack design represents the most economical use of Port funds and assets to best serve the operational need. It is located close to existing utility tie-in locations which would save on trenching, pumping and piping costs.

Staff analyzed outsourcing the vehicle cleaning to off site facilities owned and operated by the City of Oakland and private entities with larger sized vehicles in their fleet such as PG & E and Waste Management. This option would require repeated special Caltrans and local city permitting for oversized loads in the case of certain vehicles in...
the Port’s fleet. Time spent securing these permits, moving vehicles on and off airport, and the need to clean roads of mud left by Port tires eliminated this as a financially prudent option.

The scope of work for the Large Vehicle Wash Rack includes site demolition, trenching, concrete work and plumbing. The scope of the Large Vehicle Wash Rack project is appropriately sized to allow local Small Business Enterprise (SBE) contractors to perform the work. Small local contractors have successfully bid on other airport projects, whether the contract was formally bid or not, and it is anticipated that the above work is also within the capabilities of the small local contracting community.

Port staff believes it is in the best interests of the Port to include the Large Vehicle Wash Rack project in the Port’s Small Business Program. The Port’s Small Business Program allows small local contractors to gain experience in public sector work. To encourage their participation in this work, it is recommended that the Port dispense with standard bidding procedures and engage in an outreach program by initially soliciting proposals from only small local contractors. In the event that we are not successful in soliciting an SBE contractor for this work, staff will solicit bids from other contractors, including those currently engaged in other contracts, for the work.

LOCAL BUSINESS UTILIZATION

Based on the funding source, the Port’s Non-Discrimination and Small Local Business Utilization Policy (NDSLBUP) will be applied to this project. The Social Responsibility Division and Aviation Planning have identified at least three Port-certified Small Business Enterprises (SBE’s) that are both willing and able to respond to the Port's bid.

If the Port and the selected SBE do not arrive at an acceptable contract for the project, the Port's Social Responsibility Division will work closely with Aviation Planning to ensure outreach and analysis in the accordance with the NDSLBUP.

The Port will conduct outreach in the following way:

- Outreach to firms in the Port's certified database (representing local/small businesses) doing business within the identified categories:
  - Demolition and clearance
  - Paving and grading
  - Concrete
  - Plumbing
  - Trucking
- Sharing the Port-certified list with prime contractors.
- Email blasts to trade associations, industry groups, chambers and workforce community based organizations:
  - e.g., Alameda County Building and Construction trades, Women in Trades Council, Oakland Black Board of Trade and Commerce, Oakland Chinatown Chamber, Unity Council, Cypress Mandela training Center, et al.
Port website announcement of the economic community.

As part of the pre-bid meeting, an information packet provided to potential bidders, information sharing, and education of requirements, goals, resources (e.g. certification and technical assistance) and expectations.

Email blasts will be shared with sister agencies (i.e. City of Oakland, County of Alameda, et al.) and construction clearing houses.

**BUDGET & FINANCIAL IMPACT**

This project is included in the Fiscal Year 2013 Capital Needs Assessment (CNA) Budget as a ‘pipeline’ project. $455,000 (A10900199) is allocated in the 2013 fiscal year for the project. The project was initiated in previous fiscal years using Pre-Development funds. If approved these costs would be added to the overall project cost. This work would be funded using Port funds some of which will be reimbursable through airline rates and charges.

The current estimated total project cost is shown below:

<table>
<thead>
<tr>
<th>Year*</th>
<th>Contractor Cost**</th>
<th>Consultant Design Cost</th>
<th>Port Labor Cost</th>
<th>Project Overhead*</th>
<th>Other Costs (OCIP, MAPLA Permits)</th>
<th>Total Project Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Prior Fiscal Years</td>
<td>0</td>
<td>0</td>
<td>37,618</td>
<td>73,325</td>
<td>0</td>
<td>110,943</td>
</tr>
<tr>
<td>Fiscal Year 2013</td>
<td>220,000</td>
<td>50,000</td>
<td>17,000</td>
<td>42,883</td>
<td>14,000</td>
<td>343,883</td>
</tr>
<tr>
<td>Total</td>
<td>220,000</td>
<td>50,000</td>
<td>54,616</td>
<td>116,208</td>
<td>14,000</td>
<td>454,826</td>
</tr>
</tbody>
</table>

* The figures presented are based on estimates. Staff recommends that the total amount shown be adhered to, but that there be flexibility within the items in terms of balancing overages with under-runs.

** Contractor cost includes $200,000 construction estimate and a 10% change order allowance ($20,000) per Port Ordinance 1606.

**STRATEGIC PLAN**

The Strategic Plan was adopted by the Board on October 5, 2010. The Strategic Plan is a cornerstone of the overall alignment of the Port. It provides the framework for focusing the work of staff and the Board of Port Commissioners, and serves to guide an organization-wide redesign to better match the skills and talents of Port employees with the overall strategic goals of the organization in the key areas of Sustainable Business and Economic Development, Stewardship and Accountability, Port Workforce and Operations, and Communications and Information.

This project would help the Port achieve the following goals and objectives:

<table>
<thead>
<tr>
<th>STRATEGIC PRIORITY AREAS</th>
<th>GOAL</th>
<th>OBJECTIVE</th>
<th>HOW THIS PROJECT IMPLEMENTS AND WHEN</th>
</tr>
</thead>
</table>

4
<table>
<thead>
<tr>
<th>Sustainable Economic and Business Development</th>
<th>Goal D: Improve the Port’s Financial position</th>
<th>Maximize return on Investments (ROI)</th>
<th>The large wash rack project spends the least amount of Port funds to accomplish the legally mandated Clean Water Act requirement when completed in FY2013.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Stewardship and Accountability</td>
<td>Goal E: Improve The Processes For Evaluating And Managing Capital Expenditures And For Long Term Management Of Port Property And Infrastructure</td>
<td>Prepare plans for long term use, development and management of Port property and infrastructure</td>
<td>When completed in FY2013, this project adds a large vehicle wash rack to the Port’s inventory of property assets required for proper operation.</td>
</tr>
<tr>
<td>Stewardship and Accountability</td>
<td>Goal F: Aggressively Obtain Maximum Amount Of External Grant And Government Funding And Regulatory Relief.</td>
<td>Enhance governmental affairs outreach efforts and capacity.</td>
<td>When completed in FY2013, the size of the wash rack will make it possible to share with other public agencies for occasional use washing especially large vehicles, if this use is authorized by the Board of Port Commissioners.</td>
</tr>
<tr>
<td>Stewardship and Accountability</td>
<td>Goal G: Sustain Healthy Communities Through Leading Edge Environmental Stewardship.</td>
<td>Increase cost recovery for environmental and safety compliance activities.</td>
<td>When completed in FY2013, the large vehicle wash rack will bring the Port’s Airport Facilities vehicle cleaning operations in line with the Clean Water Act.</td>
</tr>
</tbody>
</table>

It is estimated this project will generate about 3 direct jobs and about 3 induced and indirect jobs.

**STAFFING IMPACT**

It is anticipated that the design and construction management of the new Large Vehicle Wash Rack, North Field, can be accomplished within the current Port staffing levels.

**SUSTAINABILITY**

The Port has a Materials Management Program (MMP) to segregate and process waste, soil, concrete and asphalt rubble for re-use in future Port projects. The contract documents will include provisions for disposal and transportation of surplus soil, concrete rubble and pavement materials to the Port’s MMP for processing and reuse.

**ENVIRONMENTAL**
CEQA Determination

The project involves the construction of a new large equipment wash rack on the North Field, Oakland International Airport. This project is categorically exempt from the requirements of CEQA pursuant to Section 15303 (d)(e), which includes water main and sewage connections, and accessory structures.

Environmental Compliance

Construction activities and disposal of any hazardous or universal waste will be in accordance with local, state and federal regulations.

Mitigation

This project will not have any significant impacts to the environment, therefore no mitigation measures are required.

MARITIME AND AVIATION PROJECT LABOR AGREEMENT (MAPLA)

The Port of Oakland Maritime and Aviation Project Labor Agreement (MAPLA) contains provisions to assist small local businesses, including a provision that allows the Port, under limited conditions, to exclude contracts awarded to certified small local contractors from the operational requirements of the MAPLA. The Port has determined that the proposed contract for the Construction of a Large Vehicle Wash Rack is consistent with the exclusion terms of the MAPLA if it is awarded to a small local contractor that is eligible for the MAPLA Exclusion. Upon request from the successful eligible contractor, the Port may determine that awarding a contract to such a firm under this exclusion provision will augment the Port's Small/Local Business Utilization goals. However, if the successful contractor is ineligible for the exclusion, for any reason, all aspects of the MAPLA will apply to this contract. The total MAPLA Exclusion awarded to a single contractor is limited to $1,000,000.

OWNER CONTROLLED INSURANCE PROGRAM (OCIP)

As this project is funded under the CIP, the Owner Controlled Insurance Program (OCIP) coverages and provisions apply.

GENERAL PLAN

Pursuant to Section 727 of the City of Oakland Charter, this project has been determined to conform to the policies for the transportation designation of the Oakland General Plan

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 because the contract is a construction
contract covered by state prevailing wage rules and the prevailing rate of wage is higher than the wage required by the Living Wage Regulations.

OPTIONS

1. Approve the project budget and other actions associated with the implementation of this project as outlined in this agenda report. This is the recommended option.

2. Do not proceed with the project. The Port would need to clean large vehicles at a commercial vehicle wash station, paying for staff time to transport dirty Port equipment between the airport and the station.

3. Build a recycling large vehicle wash rack. This option would add approximately $400,000 in hard costs to design and implement, and would take 20 years to recapture the added cost of water saved by recycling.

RECOMMENDATION

It is recommended that the Board:

1. Authorize the project budget of $455,000;

2. Authorize the Director of Engineering to Approve Plans and Project Manual;

3. Authorize inclusion of this project in the Port’s Small Business Program;

4. Authorize waiver of standard bidding procedures and authorize the Executive Director to execute a contract with a Port-certified small business enterprise (SBE) contractor who submits an acceptable bid for the construction of a Large Vehicle Wash Rack; in an amount not to exceed $200,000;

5. Authorize the Executive Director to execute a contract for this work with any qualified contractor, based on informal bids, if the attempt to secure an acceptable bid from a SBE contractor is not successful; and

6. Authorize the Executive Director to resolve any bid protests.
RESOLUTION APPROVING AND AUTHORIZING THE TOTAL PROJECT BUDGET OF $455,000 FOR CONSTRUCTION OF LARGE VEHICLE WASH RACK, NORTH FIELD, OAKLAND INTERNATIONAL AIRPORT; GRANTING AUTHORIZATION TO INCLUDE THE PROJECT IN THE SMALL BUSINESS PROGRAM; FINDING AND DETERMINING THAT IT IS IN THE BEST INTEREST OF THE PORT OF OAKLAND ("PORT") TO CONTRACT FOR SUCH WORK WITHOUT STANDARD BIDDING PROCEDURES; AUTHORIZING THE DIRECTOR OF ENGINEERING OF THE PORT OF OAKLAND ("DIRECTOR OF ENGINEERING") TO APPROVE THE PLANS AND SPECIFICATIONS; AND AUTHORIZING EXECUTION OF A CONTRACT FOR SUCH WORK BASED ON RECEIPT OF INFORMAL PROPOSALS IN A TOTAL AGGREGATE AMOUNT NOT TO EXCEED $200,000.

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated Board Agenda Report Item No. 5.4, dated October 18, 2012 ("Agenda Report") and related agenda materials, has received the expert testimony of Port staff, and has provided opportunities for and taken public comment; now, therefore, be it

RESOLVED, that in acting upon this matter, the Board has exercised its independent judgment based on substantial evidence in the record and adopts and relies upon the facts, data, analysis, and findings set forth in the Agenda Report and in related agenda materials and in testimony received; and be it

FURTHER RESOLVED, that based upon the information contained in the Agenda Report, the Board hereby finds and determines that it is in the best interest of the Port to approve a budget authorization for fiscal year 2012-13, for Construction of a Large Vehicle Wash Rack, North Field, Oakland International Airport, Oakland, California ("Large Vehicle Wash Rack") in a total aggregate project budget amount not to exceed $455,000; and be it

FURTHER RESOLVED, that the Board hereby finds and determines that the development and use provided for in the project manual and the
subsequent use of the development approved by this resolution are in conformity with the General Plan of the City; and be it

FURTHER RESOLVED, that the Director of Engineering or his designee is authorized to approve the plans and specifications for the Large Vehicle Wash Rack in advance of construction, pursuant to Government Code Section 830.6; and be it

FURTHER RESOLVED, that based upon the information contained in the Agenda Report, the Board hereby finds and determines that the Port’s Small Business Utilization Program encourages small contractors to develop the capacity to perform public works contracts on a competitive basis, thereby increasing the pool of competitive contractors for future Port contracts; and therefore it is in the best interest of the Port to accomplish the Large Vehicle Wash Rack, without standard bidding procedures and that said standard bidding procedures are hereby waived; and be it

FURTHER RESOLVED, that the Board authorizes that the Large Vehicle Wash Rack, be included in the Small Business Program; and be it

FURTHER RESOLVED, that the Board hereby approves and authorizes the Executive Director of the Port of Oakland ("Executive Director") to execute for and on behalf of the Board of a contract with a local small contractor, for the Large Vehicle Wash Rack, based upon the receipt of informal proposals; and be it

FURTHER RESOLVED, that if the Executive Director determines that no acceptable proposals have been received from local small contractors, he is hereby authorized to negotiate and execute a contract for such work with any qualified contractor based upon the receipt of informal proposals; and be it

FURTHER RESOLVED, that the aggregate total of all contracts, change orders, work authorization orders, or purchase orders for construction, hazard mitigation and materials authorized by this resolution, including any taxes, duties and transportation costs, shall not exceed $200,000; and be it

FURTHER RESOLVED, that bonds for the faithful performance of the work, and a bond to guarantee the payment of all claims for labor and materials furnished and for amounts due under the Unemployment Insurance Code shall be provided by the contractors as prescribed by applicable laws and regulations and the contract specifications; and be it

FURTHER RESOLVED, that Large Vehicle Wash Rack will be covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA"), however, this project is available to be included in the Port of Oakland MAPLA small business exclusion program. If the contract is awarded to a local small contractor that is eligible for
and requests in writing to be excluded from the operational requirements of the MAPLA, it is the Port’s intention to approve the exclusion, under the program established by MAPLA’s Appendix “G”-Letter of Understanding re: Small Business Utilization Program; and be it

FURTHER RESOLVED, that the Board hereby finds and determines that this project is categorically exempt from the California Environmental Quality Act (“CEQA”) and Port CEQA Guidelines pursuant to Section 15303 (d)(e), which includes water main and sewage connections, and accessory structures; and be it

FURTHER RESOLVED, that, pursuant to Port Ordinance 1506, Section 22, the Board finds and determines it to be in the Port’s best interest to delegate to the Executive Director, and hereby delegates to the Executive Director, the authority to finally resolve bid protests in connection with the Large Vehicle Wash Rack; 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 as 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.
AGENDA REPORT

TITLE: Approval of Various Space/Use Permits for the Installation and Operation of Automated Teller Machines (ATMs) at Oakland International Airport (Aviation)

AMOUNT: $14,400 Minimum Annual Guarantee per ATM Machine

PARTIES INVOLVED:

<table>
<thead>
<tr>
<th>Corporate Name/Principal</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bank of America, N.A.</td>
<td></td>
</tr>
<tr>
<td>Brian T. Moynihan, Chief Executive Officer</td>
<td>Charlotte, NC</td>
</tr>
<tr>
<td>Connie B. Sumulong, Vice President, ATM Relationship Manager</td>
<td>Seattle, WA</td>
</tr>
<tr>
<td>Pacific Rim Asset Allocation dba Bay ATM (on behalf of TransPacific National Bank)</td>
<td>Oakland, CA</td>
</tr>
<tr>
<td>Hussein Mohsen, President</td>
<td></td>
</tr>
<tr>
<td>Wells Fargo Bank, N.A.</td>
<td></td>
</tr>
<tr>
<td>John G. Stumpf, Chairman, President and CEO</td>
<td>San Francisco, CA</td>
</tr>
<tr>
<td>Lan P. Lee, Asset Manager, Corporate Properties Group</td>
<td>San Francisco, CA</td>
</tr>
</tbody>
</table>

TYPE OF ACTION: Ordinance

SUBMITTED BY: Deborah Ale Flint, Director of Aviation

APPROVED BY: Omar Benjamin, Executive Director

With this action, staff seeks Board adoption of an Ordinance approving the terms and conditions, and authorizing the Executive Director to execute, three separate Space/Use Permits each for a term of five (5) years to install and operate one or more automated teller machines (ATMs) at Oakland International Airport ("OAK"). The Space/Use Permits (SUP) will be with Bank of America, Pacific Rim Asset Allocation dba Bay ATM (on behalf of TransPacific National Bank) and Wells Fargo Bank. Staff further seeks Board delegation of authority to the Director of Aviation to supplement any SUP to add locations under the same terms and conditions, and to the Executive Director to enter into agreements with other financial institutions on substantially the same terms and conditions for additional ATMs at the Airport. Each SUP will also allow the Permittee to extend the term for an additional five years by Permitee giving the Port notice of its request to extend and the Port’s acceptance of such extension. Staff is seeking Board delegation of authority to the Director of Aviation to accept such extensions.

FACTUAL BACKGROUND
OAK considers ATM machines to be a passenger amenity, providing passengers and employees with easy and convenient access to their funds. OAK desires to have ATM providers from a multitude of financial institutions so that as many passengers as possible may access funds without paying a service fee for use of a 'foreign ATM'. OAK established a rental rate and contract terms for ATMs, and any financial institution with a reasonable local market share (≤ 1.0%) may install and operate one or more ATMs upon entering into a SUP with the Port. OAK staff does not actively solicit ATM providers; it is 'reactionary' in that any financial institution that expresses interest in the Airport is provided with the contract requirements and is given the opportunity to operate at the Airport should it so desire. OAK currently has a total of ten ATM machines from two separate financial institutions (Bank of America and Wells Fargo) available to the traveling public. The existing contracts for these ATM machines have expired and are continuing on a month-to-month basis.

ANALYSIS

The Board is being asked to authorize three separate SUPs for ATM machines, each on substantially the same terms and conditions. The SUPs allow for the installation of multiple machines in locations to be mutually agreed upon by both Airport staff and the respective financial institution. Further, the SUPs provide that ATMs can be added or removed at any time during the term. Although staff identified multiple locations, the financial institutions that have expressed interest in installing ATMs at the Airport do not plan to install ATMs at every location identified. Because not all of the identified locations will have ATMs installed, the Board is also being asked to delegate authority to the Executive Director to enter into additional SUPs with other interested financial institutions on substantially the same terms and conditions as those being referenced herein.

Information specific to each Permittee:

<table>
<thead>
<tr>
<th>Permittee</th>
<th>ATMs</th>
<th>Locations</th>
<th>Background</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bank of America, N.A.</td>
<td>5</td>
<td>T-1 pre-security, T-2 pre-security, Gate 8, Gate 24, Gate 27</td>
<td>Bank of America installed its first ATM at OAK in 1983. It currently has six ATMs at the Airport, but will remove one of its two post-security Terminal One ATMs. It is the only financial institution that provides ATMs in the pre-security portion of the Airport. While Bank of America was started in San Francisco, CA, it is now headquartered in Charlotte, NC. It operates in more than 150 countries and provides services ranging from investment and corporate banking to investing and equity execution services. In the United States it has approximately 5,700 retail banking offices and approximately 17,250 ATMs.</td>
</tr>
<tr>
<td>Pacific Rim Asset Allocation dba Bay ATM (TransPacific National Bank)</td>
<td>1</td>
<td>Gate 24</td>
<td>Pacific Rim Asset Allocation dba Bay ATM is the entity that has contracted with TransPacific National Bank to operate their ATM at the Airport. As a small community bank, TransPacific finds it more efficient to contract out the operation and servicing of its ATM network. Bay ATM provides ATM services exclusively to TransPacific, TransPacific National Bank was organized in 1984 and</td>
</tr>
</tbody>
</table>

@BCL@940A42C9.docx

97 of 156
Wells Fargo Bank, N.A.

### Board Mtg. Date: 10/18/12

<table>
<thead>
<tr>
<th>Location</th>
<th>Term</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gate 8</td>
<td>3</td>
</tr>
<tr>
<td>Gate 24</td>
<td></td>
</tr>
<tr>
<td>Gate 27</td>
<td></td>
</tr>
</tbody>
</table>

- Wells Fargo installed its first ATM at OAK in 2002. It currently operates three ATMs, all of which will continue at the same locations under the terms of the new SUP.
- Wells Fargo is headquartered in San Francisco, CA and is a diversified financial services company providing banking, insurance, investments, mortgage, and consumer and commercial finance through more than 9,000 stores and more than 12,000 ATMs.

The business terms and conditions of each SUP are as follows:

**Term:**
- Five (5) years commencing from October 1, 2012, and expiring on September 30, 2017.
- The term may be extended for an additional five years by Permittee’s notice to the Port of its request to extend and the Port’s acceptance of such extension.

**Use:**
- The non-exclusive right to install, operate and maintain one or more automated teller machines at the airport.

**Rent:**
- Minimum Annual Guarantee (MAG) of $14,400 per installed ATM machine. This rental rate is comparable to that charged at similar airports that have multiple (non-exclusive) financial institutions providing ATMs.

**Performance Deposit:**
- $3,600.00 per installed ATM machine.

**Premises:**
- Approximately 10 sq.ft. of floor space for each installed machine. Locations are shown on the attached map.

**Capital Investment by Port:**
- None.

**Capital Investment by the Permittee:**
- Each financial institution will install ATM machines and will invest additional monies as necessary to provide data and power service to the locations.

**Maintenance responsibilities of the Port:**
- None.
STRATEGIC PLAN

Entering into the *Space/Use Permit* supports the goals of the Port’s 2011-2015 Strategic Plan:

<table>
<thead>
<tr>
<th>Strategic Priority Areas</th>
<th>Goal</th>
<th>Objective</th>
<th>Result</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sustainable Economic and Business Development</td>
<td>Goal A: Create Sustainable Economic Growth for the Port and Beyond.</td>
<td>1. Maximize use of existing assets. 2. Affirm Port identity as a public enterprise. 3. Increase revenues, job creation and small business growth. 4. Pursue strategic partnerships at all levels: local, regional, national and international.</td>
<td>• ATM machines are an expected amenity at a modern airport. The ATM machines fit into the existing building space and require no added capital investment. The new <em>SUPs</em> increase the rental rate and thus the revenue generated. By providing ATMs from a variety of financial institutions, the Port is partnering with both national and local businesses.</td>
</tr>
<tr>
<td></td>
<td>Goal B: Maintain and Aggressively Grow Core Businesses</td>
<td>1. Retain existing customers and tenants. 2. Promote effective strategic communication with Port customers. 3. Price Port services to provide a highly competitive value. 3. Enhance customer service.</td>
<td>• ATMs from a variety of financial institutions provide passengers the broadest ability to access cash without paying a transaction fee. This provides value to OAK passengers and continues to expand banking choices to the traveling public and to Airport tenants and staff.</td>
</tr>
<tr>
<td></td>
<td>Goal D: Improve The Port’s Financial Position</td>
<td>1. Improve cash position and debt service coverage ratio (DSCR). 2. Minimize expenditures.</td>
<td>• Entering into the <em>SUP</em> will generate additional revenue without any associated costs to the Port.</td>
</tr>
</tbody>
</table>

BUDGET & FINANCIAL IMPACT

The FY 2012-13 Budget assumed that the ATM agreements would be approved with the higher rents. Therefore, there will be no financial impact. However, should the *SUPs* not be approved, the budget will show a deficit of $42,650.

STAFFING IMPACT

There will be no staffing impact as the result of this action.
SUSTAINABILITY

There are no obvious environmental opportunities involved with the *Space/Use Permit*.

ENVIRONMENTAL

CEQA Determination

The action proposed in this agenda report involves executing *Space/Use Permits* with three separate financial institutions. Executing these *Space/Use Permits* has been determined to be categorically exempt from the California Environmental Quality Act (CEQA) Guidelines pursuant to Section 15301, Existing Facilities, which exempts 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 use beyond that existing at the time of the lead agency’s determination.

Environmental compliance

This project will not disturb soil, groundwater, or hazardous materials.

Mitigation

This project will not have any significant impacts to the environment and no mitigation measures are required.

Related Plans and Policies

This project does not require mitigation measures; therefore, there are no related or adopted plans for this project.

MARITIME AND AVIATION PROJECT LABOR AGREEMENT (MAPLA)

The action to approve the *Space/Use Permits* 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 to this action. However, if future tenant construction work under this *Space/Use Permit* exceeds the thresholds required for coverage under the MAPLA, the provisions of MAPLA will apply when Port Permits are requested for said future construction work.

OWNER CONTROLLED INSURANCE PROGRAM (OCIP)

The work performed under the *Space/Use Permits* is not within the scope of the Port of Oakland’s Owner Controlled Insurance Program.

GENERAL PLAN

Pursuant to Section 727 of the City of Oakland Charter, the *Space/Use Permits* have been determined to conform to the policies for the transportation designation of the Oakland General Plan.
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 this agreement as the tenants do not employ 21 or more employees working on Port-related work. However, the tenants will be required to certify that should living wage obligations become applicable, the tenants shall comply with the Living Wage Regulations.

OPTIONS

1. Approve the terms and conditions of the Space/Use Permits with Bank of America, N.A., Pacific Rim Asset Allocation dba Bay ATM (on behalf of TransPacific Bank) and Wells Fargo Bank, N.A. that are consistent with terms and conditions as described above and (1) authorize the Executive Director to execute such SUPs, (2) authorize the Director of Aviation to supplement any SUP to add locations under the same terms and conditions, (3) delegate authority to the Executive Director to enter into substantially similar agreements with other financial institutions, and (4) authorize the Director of Aviation to accept any request for extension for an additional five years.

2. Do not approve the terms and conditions of the Space/Use Permits, as described above, but recommend different terms and conditions; or,

3. Reject the Space/Use Permits with one or more of the financial institutions, as described above, which result in (1) fewer total ATM machines at the Airport, (2) less choice in banking institutions providing financial services to passengers and employees, and (3) reduced revenue to the Port.

RECOMMENDATION

It is recommended that the Board give first reading of an ordinance approving the Space/Use Permits with Bank of America, N.A., Pacific Rim Asset Allocation dba Bay ATM (on behalf of TransPacific Bank) and Wells Fargo Bank, N.A. that are consistent with terms and conditions as described above and (1) authorize the Executive Director to execute such Space/Use Permits, (2) authorize the Director of Aviation to supplement any SUP to add locations under the same terms and conditions, (3) delegate authority to the Executive Director to enter into substantially similar agreements with other financial institutions, and (4) authorize the Director of Aviation to accept any request for extension for an additional five years.
BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND

ORDINANCE APPROVING AND AUTHORIZING SPACE/USE PERMITS WITH BANK OF AMERICA, N.A., PACIFIC RIM ASSET ALLOCATION DOING BUSINESS AS BAY ATM AND WELLS FARGO BANK, N.A., FOR THE INSTALLATION AND OPERATION OF AUTOMATED TELLER MACHINES AT OAKLAND INTERNATIONAL AIRPORT.

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report dated October 18, 2012, Item 5.5 ("Agenda Report") and related materials, has received the expert testimony of Port of Oakland ("Port") staff, and has provided opportunities for and taken public comment; now, therefore,

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

Section 1. The Board hereby approves Space/Use Permits ("Agreement") between the CITY OF OAKLAND, a municipal corporation, acting by and through the Board, and BANK OF AMERICA, N.A., PACIFIC RIM ASSET ALLOCATION doing business as BAY ATM and WELLS FARGO BANK, N.A., ("Permittees") for the installation and operation of automated teller machines (ATMs) at Oakland International Airport for a term of 5 years commencing October 1, 2012, at the rates and terms and conditions as set forth in the Agenda Report, and upon such standard terms and conditions as specified in the Agreement and approved by the Executive Director, subject to the Port Attorney's review and approval as to form and legality.

Section 2. The Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act Guidelines Section 15301.

Section 3. The Executive Director is hereby authorized (1) to execute said Agreements, and (2) to enter into substantially similar agreements with other financial institutions.
Section 4. The Director of Aviation is hereby authorized (1) to supplement any Agreement to add locations under the same terms and conditions set forth in the Agreement, and (2) to accept any request for extension for an additional five years as provided in the Agreement.

Section 5. This ordinance is not evidence of and does not create or constitute (a) a contract, agreement, 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, is signed and approved as to form and legality by the Port Attorney, and is delivered to Permittees, there shall be no valid or effective Agreements.

Section 6. In acting upon the matters contained herein, the Board has exercised its independent judgment based on substantial evidence in the record and adopts and relies upon the facts, data, analysis, findings and conditions set forth in the Agenda Report and in related materials and in testimony received.

President.

Attest

Secretary.

Approved as to form and legality:

Port Attorney
AGENDA REPORT

TITLE: Approval of the Second Amendment to Utility and Janitorial Agreement with the United States of America, acting through the Transportation Security Administration at Oakland International Airport (Aviation)

AMOUNT: Monthly Revenue of Approximately $8,600, plus metered electrical charges

PARTIES INVOLVED:

<table>
<thead>
<tr>
<th>Corporate Name/Principal</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>United States of America</td>
<td>Washington, D.C.</td>
</tr>
<tr>
<td>Roxana M. Tuculescu, Program Manager</td>
<td>Arlington, Virginia</td>
</tr>
</tbody>
</table>

TYPE OF ACTION: Ordinance

SUBMITTED BY: Deborah Ale Flint, Director of Aviation

APPROVED BY: Omar Benjamin, Executive Director

With this action, staff seeks Board adoption of an Ordinance ratifying the execution of the Second Amendment to Utility and Janitorial Agreement ("Second Amendment") which provides for a five year extension of the original agreement and an upward adjustment of the footprint of the Transportation and Security Administration ("TSA") screening space.

This action will provide for the TSA’s continued reimbursement of electrical charges and janitorial services utilized in checkpoint and bag screening operations, resulting in the collection of approximately $8,600 in revenue per month, plus metered electrical charges.

FACTUAL BACKGROUND

With Resolution Number 03300 the Board authorized execution of a Utility and Janitorial Agreement ("Agreement") with the TSA for the reimbursement of janitorial and electrical utility services utilized in the operation of security checkpoints and baggage screening operations in Terminals 1 and 2. The term of the Agreement commenced on October 1, 2007 and expires on September 30, 2012. The Agreement provides for the periodic adjustment of the TSA footprint and charges. Those terms were modified, without any required Board action, through the First Amendment to Utility and Janitorial Agreement which was executed on October 1, 2008. An Ordinance is now required to extend the term of the Agreement for five additional years.

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, 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. However, the statute does obligate the TSA to reimburse airports for the cost of telecommunications, utilities, and janitorial expenses which airports may incur in providing the necessary security checkpoint space.

The Second Amendment will provide for the TSA’s continued reimbursement for electrical utilities and janitorial services (the TSA does not use Port telephone lines.) The TSA’s electrical use is metered and they are billed at normal Port rates. Janitorial services are billed at $4.50 per square foot per year. The footprint of the total “necessary security checkpoint space” is subject to annual adjustment. For the 2012-2013 fiscal year the footprint is 23,045 square feet, resulting in an annual charge of $103,704 ($8,642 per month.)

**STRATEGIC PLAN ALIGNMENT**

Entering into the Second Amendment supports two goals in the Port’s FY2011-2015 Strategic Plan:

<table>
<thead>
<tr>
<th>Goal</th>
<th>Objective</th>
<th>Result</th>
</tr>
</thead>
<tbody>
<tr>
<td>Goal A: Create sustainable economic growth for the Port and beyond.</td>
<td>1. Maximize the use of existing assets. 2. Increase revenue, job creation and small business growth</td>
<td>Extension of the TSA agreement will retain and increase revenues for the Port.</td>
</tr>
</tbody>
</table>

**BUDGET & FINANCIAL IMPACT**

For FY2012-13, the revenue budget for TSA janitorial reimbursement is $25,926. This represents three months (July-September) of revenue at $8,642 per month. The full year revenue was not budgeted since the extension beyond the termination date of September 30, 2012 was not in place at the time of budget development and approval and staff wished to be conservative. The Second Amendment will provide incremental revenues of approximately $77,800 above the approved FY2012-13 budget. Future revenue will be determined by any adjustments to the footprint of the necessary security checkpoint space, but should remain relatively stable.

**STAFFING IMPACT**

There will be no staffing impact as the result of this action.

**SUSTAINABILITY**

There are no obvious environmental opportunities involved with the Second Amendment.
ENVIRONMENTAL

The action proposed in this agenda report involves approving an extension to the existing \textit{Utility and Janitorial Agreement} with the TSA. California Environmental Quality Act (CEQA) Guidelines Section 15378(2) states that “Project” means the whole of an action that has a potential for resulting in either direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment. The general rule in Section 15061(b)(3) of the Guidelines additionally states that CEQA applies only to activities that have a potential for causing a significant effect on the environment. Because it can be seen with certainty that there is no possibility that extending the existing \textit{Utility and Janitorial Agreement} with TSA may have a significant effect on the environment, the action is not a “Project” under CEQA, and is not subject to CEQA under the General Rule Exclusion. No further review of this action under CEQA is required.

The \textit{Utility and Janitorial Agreement} allows for reimbursement to the Port for electrical charges and janitorial services utilized in checkpoint and bag screening operations by TSA. These charges are statutorily exempt under the CEQA Guidelines Section 15273 (a)(1). CEQA does not apply to the establishment, modification, structuring, restructuring, or approval of rates, tolls, fares, or other charges by public agencies with the public agency finds are for the purpose of meeting operating expenses, including employee wage rates and fringe benefits.

MARITIME AND AVIATION PROJECT LABOR AGREEMENT (MAPLA)

This agreement provides only for the reimbursement of janitorial and utility services provided to the TSA. The provisions of the Port of Oakland Maritime and Aviation Project Labor Agreement do not apply.

OWNER CONTROLLED INSURANCE PROGRAM (OCIP)

This agreement is not within the scope of the Port of Oakland’s Owner Controlled Insurance Program.

GENERAL PLAN

Pursuant to Section 727 of the City of Oakland Charter, the proposed actions have been determined to conform to the policies for the transportation designation of the Oakland General Plan.

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 is a government agency.
OPTIONS

1. Adopt an Ordinance ratifying the execution of the Second Amendment to Utility and Janitorial Agreement with the United States of America, acting through the Transportation Security Administration based on the above analysis, which is the staff recommendation.

2. Do not adopt an Ordinance ratifying the execution of the Second Amendment to Utility and Janitorial Agreement with the United States of America, acting through the Transportation Security Administration which will result in: (i) the inability to obtain reimbursement for services the Port is required to provide by federal statute, and (ii) a loss of an estimated $8,600 in monthly revenue plus electrical utility billing for the balance of FY2012/2013 and beyond.

3. Approve an Ordinance ratifying the execution of the Second Amendment to Utility and Janitorial Agreement with the United States of America, acting through the Transportation Security Administration under different terms and conditions.

RECOMMENDATION

It is recommended that the Board Adopt an Ordinance ratifying the execution of the Second Amendment to Utility and Janitorial Agreement with the United States of America, acting through the Transportation Security Administration on the terms and conditions set forth above, subject to the Port Attorney’s review and approval as to form and legality.
ORDINANCE RATIFYING EXECUTION OF THE SECOND AMENDMENT TO UTILITY AND JANITORIAL AGREEMENT WITH THE UNITED STATES OF AMERICA, ACTING THROUGH THE TRANSPORTATION SECURITY ADMINISTRATION AT OAKLAND INTERNATIONAL AIRPORT ("TSA").

WHEREAS, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the Agenda Report for Agenda Item 5.6, dated October 18, 2012 ("Agenda Report") and related agenda materials, has received the expert testimony of Port of Oakland ("Port") staff, and has provided opportunities for and taken public comment; now, therefore

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

Section 1. The Board hereby ratifies the execution of the Second Amendment to Utility and Janitorial Agreement ("Amendment") with the United States of America, acting through the Transportation Security Administration ("TSA") at Oakland International Airport, as more fully described in the Agenda Report.

Section 2. In acting upon this matter, the Board has exercised its independent judgment based on substantial evidence in the record and adopts and relies upon the facts, data, analysis, and findings set forth in the Agenda Report and in related agenda materials and in testimony received.
Section 3. 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.

Attest:

Approved as to form and legality:

Port Attorney

President.

Secretary.
AGENDA REPORT

TITLE: Approval of a *Telecommunications License Agreement* with New Cingular Wireless PCS, LLC dba AT&T Mobility at Oakland International Airport (Aviation)

AMOUNT: Monthly Revenue of Approximately $9,300

PARTIES INVOLVED:

<table>
<thead>
<tr>
<th>Corporate Name/Principal</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>New Cingular Wireless PCS, LLC dba AT&amp;T Mobility</td>
<td>Atlanta, Georgia</td>
</tr>
<tr>
<td>Stanley T. Sigman, President and CEO</td>
<td>Norcross, Georgia</td>
</tr>
<tr>
<td>F. Kevin Flaherty, Northern California Market Manager</td>
<td>Pleasanton, California</td>
</tr>
</tbody>
</table>

TYPE OF ACTION: Ordinance and Resolution

SUBMITTED BY: Deborah Ale Flint, Director of Aviation

APPROVED BY: Omar Benjamin, Executive Director

With this action, staff seeks Board adoption of an Ordinance and passing a Resolution for the following actions:

- *Telecommunications License Agreement* with New Cingular Wireless PCS, LLC dba AT&T Mobility (the *TLA*);

- *Amendment to Telecommunications License Agreement* with New Cingular Wireless PCS, LLC dba AT&T Mobility (*TLA Amendment*); and,

- Resolution approving the Building Permit for the installation of improvements by New Cingular Wireless PCS, LLC dba AT&T Mobility that are described herein.

These actions will provide for the continued operation and delivery of wireless telecommunications services at North Field of Oakland International Airport through the approval of a *Telecommunications License Agreement* for New Cingular Wireless PCS, LLC doing business as AT&T Mobility (“New Cingular”) through December 31, 2017, resulting in the collection of $9,000 in monthly rental revenue, plus $50 per antenna, per month (for 6 existing antennas). This action would authorize the Executive Director to execute the *TLA* and the *TLA Amendment*, subject to approval by the Port Attorney as to form and legality.

FACTUAL BACKGROUND

At its meeting of March 1, 2005, the Board adopted Ordinance Number 3835 approving a *Wireless Telecommunications Agreement (WTA)* with New Cingular Wireless PCS, LLC to provide wireless telecommunications services from a portion of the rooftop area of Hangar 3...
(Building L-310 East). The term of the WTA commenced on May 1, 2005, and expired on April 30, 2010. The term of the WTA was extended, subject to negotiating a new TLA. New Cingular intends to continue its occupancy at Hangar 3, and proposes to enhance existing operations by installing additional equipment and antennas.

**ANALYSIS**

The proposed TLA would allow New Cingular to maintain and enhance its existing operations by increasing transmission quality for its subscriber base of cellular telephone and data transfer users including Airport staff, passengers, customers and tenants, and the general public in the vicinity of the North Field.

The improvements proposed by New Cingular include the expansion of an existing, ground level concrete slab by approximately 54 square feet to accommodate additional equipment cabinets, and three (3) additional antennas to be installed and co-located with the existing six (6) antennas that are situated on the rooftop area of Hangar 3. The additional 54 square foot expansion of the ground level, concrete slab, will not impact North Field operations, or impact the adjacent operations of Landmark Aviation, the Fixed Based Operator (FBO), occupying the eastern portion of Hangar 3.

The specific business terms and conditions of the new TLA are as follows:

**Operator:** New Cingular Wireless PCS, LLC dba AT&T Mobility

**Term:** Five (5) years commencing January 1, 2013, and expiring on December 31, 2017.

**Premises:** A portion of rooftop area at Building L-310 (Hangar 3) for antenna operation and 108 square feet of ground level space for supporting telecommunications related equipment and cabinets.

**Use:** Wireless telecommunications services provider.

**License Fees:** The Monthly License Fee is a combination of a fixed Base Fee of $9,000 plus a $50 Per-Antenna Fee:

- **Base Fee:** $9,000.00 per month
- **(Antenna Fee)** $50.00 per month

  **No. of Antennas** 6

  **License Fee Subtotal:** $9,300.00 per month
The monthly Base Fee will be subject to annual adjustments in accordance with changes to the Consumer Price Index (CPI) Urban Wage Earners and Clerical Workers, All Items for the San Francisco – Oakland Metropolitan Area, or a minimum three percent (3%) increase, whichever is higher. The monthly Per-Antenna Fee of $50 will be unchanged during the Term.

**TLA Amendment:** Within the next few months, and after the Board has approved its permit, New Cingular will install additional antennas next to the existing roof-top antennas. To document the additional improvements, the Port and New Cingular will enter into an Amendment to Telecommunications License Agreement.

**Additional TLA Revenues (after permitted work):**

<table>
<thead>
<tr>
<th></th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>New antennas: 3 @ $50/antenna</td>
<td>$150.00</td>
</tr>
</tbody>
</table>

**Performance Deposit:** The existing Performance Deposit will be increased to $32,000 to reflect at least 3 times the Monthly License Fee expected to be in effect at the expiration of the Term. This will enable New Cingular to satisfy its Performance Deposit requirement with a single increase, eliminating annual incremental increases that are burdensome to administer throughout the Term.

**Administrative Fee:** One-time administrative fee of $5,000 for negotiating the TLA.

All fees and charges are consistent with current charges imposed upon telecommunications carriers at the South Airport (MetroPCS, Sprint-Nextel, Verizon Wireless, T-Mobile, and New Cingular Wireless/AT&T Mobility). The permitted improvements will be constructed and operated at New Cingular’s sole cost and expense.

**STRATEGIC PLAN ALIGNMENT**

Entering into the TLA supports two goals in the Port’s FY2011-2015 Strategic Plan:

<table>
<thead>
<tr>
<th>Goal A: Create sustainable economic growth for the Port and beyond.</th>
<th>Objective</th>
<th>Result</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Maximize the use of existing assets.</td>
<td>New Cingular continues to occupy and utilize Hangar 3 to deliver voice and data services from the North Field of Oakland International Airport. New Cingular’s tenancy will retain and increase revenues for the Port.</td>
<td></td>
</tr>
<tr>
<td>2. Increase revenue, job creation and small business growth</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Goal B: Maintain and aggressively grow core businesses.</th>
<th>Objective</th>
<th>Result</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Retain existing customers and tenants.</td>
<td>New Cingular maintains and enhances it operations for its customer base.</td>
<td></td>
</tr>
</tbody>
</table>
BUDGET & FINANCIAL IMPACT

For FY2012-13, the annual revenues for the New Cingular tenancy at Hangar 3, is budgeted at $67,176. The TLA will generate approximately $22,200 in incremental rental revenue in FY2012-13. Over the five (5) year Term, the TLA, will generate approximately $558,000 in rental revenue. The Base Fee only (not the Antenna Fee) will be adjusted annually on each anniversary date of the TLA by a minimum of three percent (3%) throughout the course of the five (5) year Term.

In addition, and when the permitted improvement work is completed, a TLA Amendment will document the 3 additional antennas that will generate an additional $150 per month. The TLA Amendment will generate approximately $1,800 in additional annual rental revenue from the time the 3 additional antennas are installed.

Finally, there is a one-time, non-refundable, administrative fee of $5,000 to partially reimburse the Port for staff costs associated with negotiating the new TLA. The Performance Deposit is being increased to $32,000 in accordance with the Performance Deposit requirement of three times the Monthly License Fee. The increase will satisfy the Performance Deposit requirement throughout the term of the TLA.

STAFFING IMPACT

There will be no staffing impact as the result of this action.

SUSTAINABILITY

There are no obvious environmental opportunities involved with the TLA or future TLA Amendment.

ENVIRONMENTAL

CEQA Determination

The action proposed in this agenda report involves approving a new TLA and a future TLA Amendment with New Cingular Wireless PCS, LLC dba AT&T Mobility. This action is categorically exempt from requirements of the California Environmental Quality Act (CEQA) Guidelines pursuant to Section 15300.4 and the Port CEQA Guidelines, Section 15301(p), which exempts renewals, extensions or amendments to leases or license and concession agreements where the premises or licensed activity was previously leased or licensed to the same or another person, and involving negligible or no expansion of use beyond that previously existing.

Compliance

This project is not expected to substantially disturb soil, groundwater, or hazardous materials and New Cingular will be subject to the environmental safeguards contained within the applicable provisions of the TLA.
MARITIME AND AVIATION PROJECT LABOR AGREEMENT (MAPLA)

The work performed by New Cingular does not exceed the exclusion provisions of the Port of Oakland Maritime and Aviation Project Labor Agreement (MAPLA) and the provisions of MAPLA do not apply to this tenant project.

OWNER CONTROLLED INSURANCE PROGRAM (OCIP)

The work performed under the new TLA is not within the scope of the Port of Oakland’s Owner Controlled Insurance Program.

GENERAL PLAN

Pursuant to Section 727 of the City of Oakland Charter, the proposed actions have been determined to conform to the policies for the transportation designation of the Oakland General Plan.

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 this agreement as the tenant does not employ 21 or more employees working on Port-related work. However, the tenant will be required to certify that should Living Wage obligations become applicable, the tenant shall comply with the Living Wage Regulations.

OPTIONS

1. Adopt an Ordinance approving the Telecommunications License Agreement and the Amendment to Telecommunications License Agreement with New Cingular Wireless PCS, LLC dba AT&T Mobility and authorize execution of the agreements by the Executive Director, and pass a Resolution to issue the Building Permit with New Cingular to construct and install the additional improvements, AT&T Mobility based on the above analysis which is the staff recommendation.

2. Do not adopt an Ordinance approving the Telecommunications License Agreement and Amendment to Telecommunications License Agreement with New Cingular and do not pass a Resolution to issue the Building Permit with New Cingular Wireless PCS, LLC dba AT&T Mobility which will result in: (i) less than optimum wireless telecommunications services being available to New Cingular’s subscriber base of Airport staff, passengers, customers and tenants, and the general public in the vicinity of the North Field, and (ii) a loss of an estimated $9,300 in monthly revenue for the balance of FY2012/2013 and beyond.

3. Approve the Telecommunications License Agreement and Amendment to Telecommunications License Agreement, and issue the Building Permit with New Cingular Wireless PCS, LLC dba AT&T Mobility under different terms and conditions.
RECOMMENDATION

It is recommended that the Board adopt an Ordinance approving the *Telecommunications License Agreement* and the *Amendment to Telecommunications License Agreement* with New Cingular Wireless PCS, LLC dba AT&T Mobility and authorize execution by the Executive Director on the terms and conditions set forth above, subject to the Port Attorney's review and approval as to form and legality. It is also recommended that the Board pass a Resolution approving the Building Permit for the proposed improvements.
RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR OF THE PORT OF OAKLAND ("EXECUTIVE DIRECTOR") TO ISSUE A BUILDING PERMIT TO NEW CINGULAR WIRELESS PCS, LLC, DOING BUSINESS AS AT&T MOBILITY FOR INSTALLATION OF IMPROVEMENTS AT NORTH FIELD, OAKLAND INTERNATIONAL AIRPORT, OAKLAND, CALIFORNIA.

WHEREAS, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the Agenda Report for Agenda Item 5.7, dated October 18, 2012 ("Agenda Report") and related agenda materials, has received the expert testimony of Port of Oakland ("Port") staff, and has provided opportunities for and taken public comment; now, therefore, be it

RESOLVED, that the Board hereby approves a building permit for NEW CINGULAR WIRELESS PCS, LLC, doing business as AT&T MOBILITY ("Tenant") to perform certain work at the rooftop area of Hangar 3, Building L-310, located on the North Field, Oakland International Airport, Oakland, California, including the following:

(1) Expansion of an existing ground level concrete slab and installation of additional antennas, as more fully described in the Agenda Report; and

(2) Compliance with all of the terms and conditions of the Tenant's Telecommunications License Agreement and other applicable agreements with the Port; and be it
FURTHER RESOLVED, that the Board hereby finds and determines that this project is categorically exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to the Port CEQA Guidelines and the State CEQA Guidelines; and be it

FURTHER RESOLVED, that in acting upon this matter, the Board has exercised its independent judgment based on substantial evidence in the record and adopts and relies upon the facts, data, analysis, and findings set forth in the Agenda Report and in related agenda materials and in testimony received.
BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND

ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION
OF A TELECOMMUNICATIONS LICENSE AGREEMENT AND
AMENDMENT TO TELECOMMUNICATIONS LICENSE AGREEMENT
WITH NEW CINGULAR WIRELESS PCS, LLC DOING BUSINESS
AS AT&T MOBILITY, LOCATED AT HANGAR 3, BUILDING L-310
EAST, NORTH FIELD, OAKLAND INTERNATIONAL
AIRPORT, OAKLAND, CALIFORNIA.

WHEREAS, the Board of Port Commissioners of the City of Oakland
(“Board”) has reviewed and evaluated the Agenda Report for Agenda Item
5.7, dated October 18, 2012 ("Agenda Report") and related agenda
materials, has received the expert testimony of Port of Oakland
(“Port”) staff, and has provided opportunities for and taken public
comment; now, therefore

BE IT ORDAINED by the Board as follows:

Section 1. The Board hereby approves a Telecommunications
License Agreement (“Agreement”) and an Amendment to Telecommunications
License Agreement (“Amendment”) between the CITY OF OAKLAND, a
municipal corporation, acting by and through the Board, and NEW
CINGULAR WIRELESS PCS, LLC doing business as AT&T MOBILITY, a Delaware
limited liability company, upon the terms and conditions set forth in
the Agenda Report and hereby authorizes the Executive Director of the
Port (“Executive Director”), or his designee, to approve and execute
the Agreement and the Amendment subject to the approval of the Port
Attorney as to form and legality.

Section 2. The Board hereby finds and determines that this
project has been determined to be categorically exempt from
requirements of the California Environmental Quality Act.

Section 4. In acting upon this matter, the Board has exercised
its independent judgment based on substantial evidence in the record
and adopts and relies upon the facts, data, analysis, and findings set
forth in the Agenda Report and in related agenda materials and in
testimony received.
Section 5. This ordinance 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. Unless and until a separate written agreement is duly executed on behalf of the Board as authorized by this ordinance, 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.

__________________________________________
President.

Attest: ____________________________________

Secretary.

Approved as to form and legality:

__________________________________________
Port Attorney
AGENDA REPORT

TITLE: Approval of a 10 Year Sublease With One Option to Renew for a Five Year Term for Approximately 9,200 sq.ft. Located at 1 Broadway, Oakland, CA

AMOUNT: $0 except for one time processing fee of $510.39

PARTIES INVOLVED:

<table>
<thead>
<tr>
<th>Corporate Name/Principal</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Jack London Square Associates, LLC, a California limited liability company</td>
<td>Oakland, CA</td>
</tr>
<tr>
<td>Rick Mariano, Principal</td>
<td></td>
</tr>
<tr>
<td>5 Terraces, LLC, a California limited liability company</td>
<td>Oakland, CA</td>
</tr>
<tr>
<td>Chris Pastena, Principal</td>
<td></td>
</tr>
</tbody>
</table>

TYPE OF ACTION: Resolution

SUBMITTED BY: Pamela Kershaw, Director Commercial Real Estate

APPROVED BY: Omar Benjamin, Executive Director

EXECUTIVE SUMMARY

The current lessee of the Waterfront Hotel, Jack London Square Associates, LLC (“JLSA”) is requesting the Port’s approval of a sublease for the restaurant space currently located within the hotel. If approved, the current Miss Pearl’s restaurant operation would be replaced with a new restaurant run by a different restaurateur. The proposed new operator, 5 Terraces LLC, will be led by the current chef and an owner of the popular Chop Bar Restaurant located elsewhere within the Jack London District. The proposed sublease request will not alter any of the existing terms or conditions of the existing Lease between the Port and JLSA. Staff is recommending approval of the requested sublease, based upon the analysis contained within this report.

FACTUAL BACKGROUND

Miss Pearl’s Jam House restaurant (“Miss Pearl’s) is located at 1 Broadway in Jack London Square, adjacent to the Waterfront Hotel. A site map indicating the location of the premises is attached as Exhibit A to this report. Miss Pearl’s, the Waterfront Hotel, and associated banquet/meeting rooms located on Water Street are all subject to a long term ground lease between the Port of Oakland and Jack London Square Associates, LLC, (“JLSA”), most recently amended and assigned in October 2010 (“Lease”). JLSA’s managing member is RSM Management, LLC, led by Rick Mariano, its founder and president.
Miss Pearl’s restaurant has a total seating capacity for 135 indoor and 62 outdoor diners, plus 88 bar/lounge guests. Miss Pearl’s restaurant is open to the public for breakfast, lunch and dinner services, featuring Southern and Creole cuisine. Miss Pearl’s also provides food and beverage for the hotel’s room service and catering for the banquet/meeting rooms.

In accordance with the terms of the Lease, the Lessee pays a monthly Minimum Rent of $6,311.00 for the restaurant space, with a rent adjustment every five years based on the increase in the Consumer Price Index. The Port is also entitled to a percentage rent when the restaurant’s gross sales exceeds the natural breakpoint of $315,550 per month, i.e. the percentage rent is structured at 2% of gross sales minus the Minimum Rent. In addition, the Lessee pays a monthly Minimum Rent of $32,932 for the hotel, banquet and meeting rooms plus a percentage rent of 5.25% of all gross receipts for those operations minus the Minimum Rent. The Lease expires in August 2061 and there are no renewal options.

In an effort to increase restaurant activity in the hotel, the Lessee decided to seek out an alternative restaurant concept that appeals to a broader customer base. On August 24, 2012, the Port received a request from the Lessee for Port consent to the approval of a sublease for the restaurant space with 5 Terraces, LLC for a ten year term, with one option to renew for an additional five years.

Section 18 of the Lease prohibits the Lessee from subletting any portion of the leased premises without obtaining the prior written consent of the Port, evidenced by resolution of its Board of Port Commissioners, which consent shall not unreasonably be withheld or delayed. The Lease states that the Port may approve or condition its consent of a proposed sublease to such provisions as are reasonable to protect the rights and interest of the Port under the Lease and to assure promotion of commerce, navigation and shipping.

ANALYSIS

The proposed subtenant, 5 Terraces, LLC, was formed by Chris Pastena, an owner and operator of Chop Bar restaurant, located at 247 4th Street, Oakland. Mr. Pastena is proposing an Italian restaurant which will feature organic ingredients and locally grown produce and products. The menu will offer Italian entrees, pizzas, pastas, signature sandwiches, salads, innovative cocktails, artisan beers and wines on tap. The proposed restaurant will seat approximately 150 indoor and 80 outdoor diners, 20 bar seats, plus a 20 seat coffee bar. In addition, the proposed restaurant will be the exclusive caterer for the Waterfront Hotel’s banquet/meeting rooms, as well as providing food and beverage for hotel guest room services. The proposed restaurant will be called “Lungomare,” open 7 days a week serving breakfast, lunch, dinner and weekend brunches.

Mr. Pastena graduated from the Culinary Institute of America and has over 25 years of experience in the restaurant industry as an owner, chef, and consultant. As an owner, Mr. Pastena created “Coda” a San Francisco jazz supper club, which he has since sold his ownership interest, and “Chop Bar” restaurant which began in 2009. Mr. Pastena and Chop Bar have been featured in numerous media publications, most recently in the July 11,
2012 Wall Street Journal, copy attached. As a chef and/or consultant, Mr. Pastena has worked for such notable restaurants as Acquerello, Rose Pistola, and Mustard's Grill. Further details of Mr. Pastena’s experience, awards and recognition can be found in the resume attached to this report as Exhibit B. Supporting Mr. Pastena as General Manager will be Michael Iglesias, another veteran in the restaurant industry with an extensive background as a General Manager and Wine Director.

Pending the Port’s approval of the proposed sublease and the execution of all legal documents, 5 Terraces LLC will begin their transition to take over the restaurant space. The Lessee has indicated to Port staff that all existing Miss Pearl’s employees will be given the opportunity to apply for employment with Lungomare. JLSA anticipates delivering the restaurant space to 5 Terraces, LLC on January 7, 2013, upon which 5 Terraces, LLC will have 30 days to temporarily close the restaurant to perform minor indoor and outdoor improvements. Notwithstanding the restaurant’s temporary closure, 5 Terraces, LLC will provide hotel room service and banquet/meeting room catering.

Financial backing for 5 Terraces, LLC will be provided primarily by CallSocket LP, via its management entity San Francisco Regional Center, LLC. CallSocket has agreed to provide a $250,000 Letter of Credit to JLSA upon the execution of their lease agreement as well as act as guarantor for the financial performance of 5 Terraces’s restaurant. Tom Henderson is the General Partner of CallSocket LLC and President/CEO of San Francisco Regional Center, LLC. The proposed lease between JLSA and 5 Terraces will be subject and subordinate to the existing ground lease between JLSA and the Port. JLSA will continue to pay their monthly minimum rents and percentage rents (when applicable) for the restaurant, hotel and banquet/meeting rooms to the Port as stipulated under our ground lease.

Based on the analysis contained within this report and in the submittal materials received pursuant to the terms of the Lease, staff believes the proposed restauranteur is an experienced operator of similar successful local establishments with the expertise and financial capacity to perform the obligations of the sublease, and recommends approval of the requested sublease.

STRATEGIC PLAN

The proposed lease between JLSA and 5 Terraces, LLC is consistent with the following goals and objectives of the Strategic Plan:

<table>
<thead>
<tr>
<th>Strategic Priority Areas</th>
<th>Goals</th>
<th>Objective</th>
<th>How the requested action will implement the subject goal/objective</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sustainable Economic and Business Employment</td>
<td>Goal A: Create sustainable economic growth for the Port and beyond.</td>
<td>Objective 1: Maximize the use of existing assets.</td>
<td>The proposed restaurant sublease will utilize the existing restaurant improvements, thereby maximizing the existing asset improvements for continued use.</td>
</tr>
</tbody>
</table>
### Objective 3: Increase revenue, job creation and small business growth.

Port staff anticipates that the proposed restaurant will generate higher revenues resulting in potential percentage rents paid to the Port and a more successful operation may result in the creation of additional jobs.

<table>
<thead>
<tr>
<th>Goal B: Maintain and aggressively grow core businesses.</th>
<th>Objective 1: Retain existing customers and tenants.</th>
</tr>
</thead>
<tbody>
<tr>
<td>The proposed sublease will allow JLSA to concentrate on their core business of hotel management and operations, while transferring restaurant operations to a restaurateur with a proven track record.</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Goal D: Improve the Port’s financial position</th>
<th>Objective 1: Improve cash position and debt service coverage ratio (DSCR).</th>
</tr>
</thead>
<tbody>
<tr>
<td>The proposed lease between JLSA and 5 Terraces, LLC will not alter the existing lease terms and obligations between JLSA and the Port, however it may result in increased percentage rents to the Port pending restaurant sales.</td>
<td></td>
</tr>
</tbody>
</table>

### BUDGET & FINANCIAL IMPACT

The proposed lease between JLSA and 5 Terraces, LLC will have no financial impact on the Port’s budget as the existing rental terms stipulated in our ground lease with JLSA will continue in full force and effect. However, in the event the new restaurant generates an increase in revenues, the Port will be entitled to additional percentage rent in accordance with the ground lease terms. Pursuant to Section 18 of the Lease, the applicant submitted a processing fee in the amount of $510.39 for the review and processing of this sublease approval request.

### STAFFING IMPACT

The proposed lease will have no impact on staffing as the Waterfront Hotel and Miss Pearl’s space are managed by existing CRE Division staff.

### SUSTAINABILITY

While the proposed action does not directly address the Port’s goals and objectives of our Sustainability Policy, Port staff will provide the tenant a copy of our Sustainability Toolkit,
including Checklist and Resources with the intent of implementing sustainable practices when and where feasible.

ENVIRONMENTAL

The proposed lease between JLSA and 5 Terraces, LLC for approximately 9,200 sq.ft. at 1 Broadway for a ten year term with one option to renew for an additional 5 years has been determined to be exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Article 19, Section 15300.4, which directs public agencies, in the course of establishing their own procedures, to list specific activities that fall within each of the exempt classes categorized under Article 19 (Categorical Exemptions), and Port CEQA Guidelines Section 15301(p), which exempts the execution of leases or License & Concession agreements where the premises or licensed activity was previously leased or licensed to the same or another person, and involving negligible or no expansion of use beyond that previously existing. Approval of the proposed lease between JLSA and 5 Terraces, LLC falls within this class of exemptions. No additional environmental review is required to take the action recommended in this Agenda Report.

Environmental Compliance

5 Terraces LLC., will properly store, handle, and/or dispose of materials as required by local, state, and federal regulations.

MARITIME AND AVIATION PROJECT LABOR AGREEMENT (MAPLA)

The matters contained 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.

OWNER CONTROLLED INSURANCE PROGRAM (OCIP)

OCIP does not apply to the proposed action.

GENERAL PLAN

General Plan conformity does not apply to the proposed action as the proposed sublease will not result in the construction of any new permanent facilities. Furthermore, the restaurant space has been utilized as restaurant space for various tenants since the building was constructed and the proposed lease will not alter that land use pattern.

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 this matter because tenancies outside of the Aviation and Maritime areas with entities that do not principally provide aviation or maritime services are excluded from the Living Wage Regulations.
OPTIONS

1. Approve the proposed sublease between JLSA and 5 Terraces, LLC for the premises located at 1 Broadway, subject to the analysis contained in this agenda report; or

2. Do not approve the proposed lease between JLSA and 5 Terraces, LLC, and direct staff to pursue alternative terms and conditions reasonable to protect the interests of the Port, which depending on the nature of those alternative terms and conditions, may not be acceptable to the sub lessee.

RECOMMENDATION

It is recommended that the Board approve the proposed sublease between JLSA and 5 Terraces, LLC for the premises located at 1 Broadway, subject to the key terms and analysis as described within this Agenda Report and authorize the Executive Director or his designee to approve and execute any documents that may be required to effectuate the contemplated sublease, subject to the Port Attorney’s approval as to form and legality. It is further recommended that the subject approval be valid for no longer than 90 days from the date of Board authorization, and that if the subject documents are not fully executed by that date such approval shall be null and void unless further extended at the sole and absolute discretion of the Executive Director or his designee.

Attachments:

- Exhibit A – Site Map
- Exhibit B – Resume
Site Plan

1 Broadway

EXHIBIT A
Christopher M. Pastena  
Cpastena@hotmail.com  
(415)867-3967

Education:  
Culinary Institute of America, GPA 3.5 AOS, May 1996  
Fairleigh Dickinson University, Rutherford Campus GPA 3.0  
Bachelors of Science, Accounting May 1994  
Fairleigh Dickinson University, Wroxton England Campus  
Summer 1993

Experience:  
Chop Bar, Oakland, CA  
Owner www.oaklandchopbar.com  
- Full Service restaurant open for breakfast, lunch and dinner  
- Created entire concept  
- 2.2 million in yearly sales

Full Plate Consultants, Oakland, CA  
Principal www.fullplateconsulting.com  
- Created a full service restaurant consulting company  
- Consulted to a variety of restaurants and bar/lounges on projects ranging from startups and existing locations to non profits.  
- Consulting specialties include menu development and re-engineering, analysis of all BOH functions, kitchen design and equipment procurement, kitchen staff training, financial analysis, vendor sourcing

Coda, Jazz Supper Club, San Francisco, CA  
Chef/Owner www.codalive.com  
- Full Service restaurant and Live music venue  
- Created entire concept

Barbara Llewellyn Catering, Oakland, CA  
Event Chef  
- Executed all aspects of events ranging for 20 people to 2000  
- Review menu concept and design

Bruno’s Restaurant & Jazz Club, San Francisco, CA  
Oct 01 – July 04  
Executive Chef/GM/Owner  
- Created menu and concept  
- Purchased all wine, liquor and beer  
- Developed all marketing ideas  
- Help book and keep contact with live music acts  
- Booked all private parties and created private party room

Eastside West Restaurant, San Francisco, CA  
Chef  
- Helped create the concept and menu for the restaurant  
- Ran all daily aspects of kitchen including desserts  
- Involved with marketing  
- Involved with all profit and loss

EXHIBIT B
Acquerello Restaurant, San Francisco, CA        March 98 – Jan 99
Sous Chef
  • Help create menu and daily specials
  • Executed all stations of the kitchen including dessert
  • Did all daily ordering of food

Indigo Restaurant, San Francisco, CA        Apr 97 – Jan 98
Sous Chef
  • Help open restaurant and create menu
  • Worked all stations and did all daily food ordering

Rose Pistola, San Francisco, CA        May 96 – Apr 97
Rounds Man
  • Worked all stations in kitchen
  • Prepared daily specials

Mustard's Grill, Napa, CA        Sept 95 – Oct 95
Chef Assistant
  • Worked assisting Chef in all aspects of running the kitchen

Roti Restaurant, San Francisco, CA        May 95 – Sept 95
Externship
  • Worked all station in the kitchen
  • Performed weekly and monthly inventory control
  • Assisted Chef in all daily running of the kitchen

J.B. Wineries, Ridgewood, NJ        Feb 91 – March 93
  • Worked all stations in kitchen
  • Performed all end of night inventory

Olive Garden, East Brunswick, NJ        Summer 91
  • Worked all stations in kitchen

Madison Suites Hotel, Somerset, NJ        May 90 – Feb 91
Assistant to the Chef
  • Assisted Chef in preparation of all banquets
  • Created cheese and fruit platters

Awards and Positions:
American Culinary Federation 2007
Master Taster Chef Best 06-09
"Top 100 Jazz Club in the World" Down Beat Magazine 02-04,09
Board of Directors, Mission Merchant Association 2004
American Culinary Gold Award of Excellence 2002
James Beard Award, Spoons Across America 2002
Best New Restaurant Bay Guardian 2000

Activities:
Epicure of Wine Society
Ale and Lager Club
European Traveler
RESOLUTION APPROVING THE TERMS AND CONDITIONS OF A 10 YEAR SUBLEASE BETWEEN JACK LONDON SQUARE ASSOCIATES ("JLSA") TO RENEW A FIVE YEAR TERM FOR APPROXIMATELY 9,200 SQ.FT. LOCATED AT 1 BROADWAY, OAKLAND, CALIFORNIA.

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report for Item 5.8, dated October 18, 2012 (herein the "Agenda Report"), and related agenda materials, has received the expert testimony of Port of Oakland ("Port") staff, and has provided opportunities for and taken public comment; now, therefore, be it

RESOLVED, that in acting upon this matter, the Board has exercised its independent judgment based on substantial evidence in the record and adopts and relies upon the facts, data, analysis, and findings set forth in the Agenda Report and in related agenda materials and in testimony received; and be it

FURTHER RESOLVED, that the Board approves the terms and conditions of a 10 year sublease between Jack London Square Associates ("JLSA") and 5 Terraces, LLC for the premises locate at 1 Broadway, subject to the key terms and analysis as more fully described in the Agenda Report; and be it

FURTHER RESOLVED, that the Board hereby finds and determines that this project has been determined to be categorically exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Sections 15301 which categorically exempts the approval of subleases, renewals, extensions, or amendments to leases or license and concession agreements involving negligible or no expansion of use beyond that previously existing; and be it
FURTHER RESOLVED, that the Board hereby authorizes the Executive Director of the Port ("Executive Director") or his designee, to approve and execute any documents that may be required to consent to the contemplated sublease, subject to the Port Attorney's approval as to form and legality, and subject to the condition that the approvals set forth in this resolution be valid for no longer than 90 days, and that if the subject documents are not fully executed by that date such approval shall be null and void unless further extended at the sole and absolute discretion of the Executive Director or his designee; and be it

FURTHER RESOLVED that this resolution is not evidence of and does not create or constitute (a) a contract or lease, entitlement or property interest, or (b) any obligation or liability on the part of the Board or any officer or employee of the Board. Unless and until separate written agreement(s) are 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 the other contracting party, there shall be no valid or effective agreement(s).
AGENDA REPORT

TITLE: Approval of an Assignment of a Ground Lease from Motel 6 Operating LP to G6 Hospitality Property, LLC for Property Located at 1805 Embarcadero, Oakland, California.

AMOUNT: $0 except for one time processing fee of $718.21

PARTIES INVOLVED:

<table>
<thead>
<tr>
<th>Corporate Name/Principal</th>
<th>Location</th>
</tr>
</thead>
<tbody>
<tr>
<td>Motel 6 Operating LP</td>
<td>Carrollton, Texas</td>
</tr>
<tr>
<td>a Delaware Corporation</td>
<td></td>
</tr>
<tr>
<td>Steve Curtis, Senior Director</td>
<td></td>
</tr>
<tr>
<td>G6 Hospitality Property, LLC</td>
<td>Carrollton, Texas</td>
</tr>
<tr>
<td>Kristin Taylor, Executive VP</td>
<td></td>
</tr>
</tbody>
</table>

TYPE OF ACTION: Resolution

SUBMITTED BY: Pamela Kershaw, Director
Commercial Real Estate

APPROVED BY: Omar Benjamin, Executive Director

FACTUAL BACKGROUND

On February 16, 1982, the Port of Oakland entered into a ground lease with Northwest Motels LP for land located at 1805 Embarcadero in Oakland, California (“Lease”). Subsequently, on November 19, 1991, the Port authorized the assignment of the Lease from Northwest Motels LP to Motel 6 Operating LP (“Lessee”), as evidenced by the second supplemental agreement. On September 14, 2012, the Port received notice from the Lessee concerning its intention to assign the Lease to G6 Hospitality Property LLC (“G6 Property”), an affiliate of The Blackstone Group (“Blackstone”). Section 19 of the Lease prohibits the Lessee from assigning the Lease without the prior written consent of the Port, evidenced by resolution of its Board of Port Commissioners.

ANALYSIS

G6 Hospitality Property LLC, an affiliate of The Blackstone Group, is acquiring the Motel 6 brand and national properties for approximately $1.9 billion. The acquisition consists of 548 owned and leased hotels and franchise businesses across the country. The Lessee has represented to Port staff that the acquisition of the Motel 6 organization will include the entire management team, operations, and employees, including those at the subject location. Furthermore, the Lessee has represented that post-closing, the assigned property will continue to be part of the Motel 6 system and will be operated in the same manner as
before the assignment. In addition, G6 Property will assume all terms and conditions of the existing Lease.

The Blackstone Group is a leading global asset manager and provider of financial advisory services that was founded in 1985 and is headquartered in New York City. Blackstone has been one of the largest and most successful investors in the hospitality industry during the past 15 years, having acquired Hilton Hotels, Boca Resorts, Meristar, Prime Hospitality, Extended Stay Hotels, and La Quinta Inns and Suites. The company is publicly listed on the New York Stock Exchange under the ticker symbol BX. As of September 25, 2012, Blackstone’s stock price closed at $14.73 per share and the company’s enterprise value is approximately $19.38 billion. Blackstone has significant experience in owning and operating hospitality services and is financially well suited to assume the obligations of the existing Lease.

Through staff discussions with existing Motel 6 management, it has been conveyed to the Port that Blackstone is planning to invest a significant amount of capital into the asset located at 1805 Embarcadero. The capital infusion into the property is expected to modernize and refresh the product to increase the overall appeal of the asset as well as its performance. An increase in the performance of the asset will result in potential increased percentage rent payments to the Port, pursuant to the terms of the existing Lease.

As required pursuant to Section 19 of the Lease, the Lessee has paid a processing fee of $718.21 for the review and processing of this assignment request, and has submitted information regarding the proposed assignee and the assignment documents. Based on the analysis contained above and from a review of the materials submitted for the subject assignment, staff believes the requested assignment is appropriate and beneficial to the Port, and recommends approval of this request.

**STRATEGIC PLAN**

The proposed assignment to G6 Hospitality Property, LLC is consistent with the following goals and objectives of the Strategic Plan:

<table>
<thead>
<tr>
<th>Strategic Priority Areas</th>
<th>Goals</th>
<th>Objective</th>
<th>How the requested action will implement the subject goal/objective</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sustainable Economic and Business Employment</td>
<td>Goal A: Create sustainable economic growth for the Port and beyond.</td>
<td>Objective 1. Maximize the use of existing assets.</td>
<td>The proposed assignment will create the necessary capital infusion to improve and modernize the asset.</td>
</tr>
<tr>
<td></td>
<td>Goal B: Maintain and aggressively grow core businesses.</td>
<td>Objective 1: Retain existing customers and tenants.</td>
<td>The proposed assignment will improve the conditions and operations of the motel, thus maintaining the current customer base.</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Objective 2: Market</td>
<td></td>
</tr>
</tbody>
</table>
strategically and aggressively to attract new customers and tenants.

assignment will improve the conditions and operations of the motel, thus drawing new guests to the motel.

BUDGET & FINANCIAL IMPACT

The proposed assignment will have no budget or financial impact on the Port, however if the subject property is repositioned to generate additional revenues then the Port will also benefit from the payment of increased percentage rent. There is no impact to Commercial Real Estate’s 5-Year Capital Needs Assessment (CNA) for FY12 to FY16 from the proposed action. The applicant has submitted the one time processing fee of $718.21 for this assignment request.

STAFFING IMPACT

The proposed assignment will have no impact on staffing as 1805 Embarcadero is managed by existing CRE Division staff.

SUSTAINABILITY

While the proposed action does not directly address the Port’s goals and objectives of our Sustainability Policy, Port staff will provide the tenant a copy of our Sustainability Toolkit, including Checklist and Resources with the intent of implementing sustainable practices when and where feasible.

ENVIRONMENTAL

The proposed assignment has been determined to be 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 use beyond that existing at the time of the lead agency’s determination. In addition, the assignment has been determined to be categorically exempt from CEQA Guidelines pursuant to Section 15300.4 and Port CEQA Guidelines Section 15301 (p) (Existing Facilities). Subsection (p) categorically exempts the execution of renewals, extensions, or amendments to leases or license and concession agreements where the premises or licensed activity was previously leased or licensed to the same or another person and involving negligible or no expansion of use beyond that previously existing.

Environmental Compliance

Motel 6 Operating L.P. and G6 Hospitality Property LLC will properly store, handle, and/or dispose of materials as required by local, state, and federal regulations.

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 the proposed action.

**GENERAL PLAN**

General Plan conformity does not apply to the proposed action as the proposed assignment will not result in the construction of any new permanent facilities nor any changes in the land use pattern in existence on the site.

**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 this matter because tenancies outside of the Aviation and Maritime areas with entities that do not principally provide aviation or maritime services are excluded from the Living Wage regulations.

**OPTIONS**

1. Approve the proposed assignment from Motel 6 Operating LP to G6 Hospitality Property, LLC for the property located at 1805 Embarcadero, Oakland, California, as described in this agenda report;
2. Do not approve the proposed assignment from Motel 6 Operating LP to G6 Hospitality Property, LLC for the property located at 1805 Embarcadero, Oakland, California, which will result in the current ownership retaining the asset; or
3. Direct staff to negotiate alternative terms for the proposed assignment from Motel 6 Operating LP to G6 Hospitality Property, LLC, which depending on the nature of those alternative terms, may not be acceptable to the assignee.

**RECOMMENDATION**

It is recommended that the Board approve the requested assignment and authorize the Executive Director, or his designee, to approve the assignment of this Lease from Motel 6 Operating LP to G6 Hospitality Property, LLC for the property located at 1805 Embarcadero, Oakland, California, and approve and execute such other agreements as may be appropriate to consummate this transaction, subject to approval by the Port Attorney as to form and legality. It is further recommended that the subject approval shall be null and void unless fully executed within 120 days after Board approval unless further extended at the sole and absolute discretion of the Executive Director or his designee.

Attachments:

   Exhibit A - Site Map
Exhibit A – Site Map
RESOLUTION AUTHORIZING APPROVAL OF AN ASSIGNMENT OF A GROUND LEASE FROM MOTEL 6 OPERATING LP TO G6 HOSPITALITY PROPERTY, LLC FOR PROPERTY LOCATED AT 1805 EMBARCADERO, OAKLAND, CALIFORNIA SUBJECT TO A ONE TIME PROCESSING FEE OF $718.21.

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated Board Agenda Report Item No. 5.9, dated October 18, 2012 (the "Agenda Report") and related agenda materials, has received the expert testimony of Port of Oakland ("Port") staff, and has provided opportunities for and taken public comment; now, therefore be it

RESOLVED, that in acting upon this matter, the Board has exercised its independent judgment based on substantial evidence in the record and adopts and relies upon the facts, data, analysis, and findings set forth in the Agenda Report and in related agenda materials and in testimony received; and be it

FURTHER RESOLVED, that the Board hereby finds and determines that this project has been determined to be categorically exempt from the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Sections 15301 which categorically exempts the approval of subleases, renewals, extensions, or amendments to leases or license and concession agreements involving negligible or no expansion of use beyond that previously existing; and be it

FURTHER RESOLVED, that the Board hereby approves the requested assignment of the subject lease for the property located at 1805 Embarcadero, Oakland, California by Motel 6 Operating LP to G6 Hospitality Property, LLC according to the terms and conditions set forth in the Agenda Report and hereby authorizes the Executive Director of the Port ("Executive Director") or his designee, to approve and execute a consent to assignment and such other agreements as may be appropriate to consummate this transaction, subject to the Port Attorney’s approval as to form and legality and subject to the condition that this approval of the Board shall be valid for no longer
than 120 days and if the subject agreement or agreements are not fully executed by that date such approval shall be null and void unless further extended at the sole and absolute discretion of the Executive Director or his designee; 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.
PORT ORDINANCE NO. 4204

ORDINANCE AMENDING THE BY-LAWS AND ADMINISTRATIVE RULES OF THE BOARD OF PORT COMMISSIONERS.

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report dated September 6, 2012, Item 4.1 ("Agenda Report") and related materials, has received the expert testimony of Port of Oakland staff, and has provided opportunities for and taken public comment; now, therefore,

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

Section 1. The Board hereby approves the revisions to By-Laws and Administrative Rules of the Board of Port Commissioners, as reflected in the attachment to the Agenda Report.

Section 2. In acting upon the matters contained herein, the Board has exercised its independent judgment based on substantial evidence in the record and adopts and relies upon the facts, data, analysis, findings and conditions set forth in the Agenda Report and in related materials and in testimony received.

The Board of Port Commissioners, Oakland, California, October 4, 2012. Passed to print for one day by the following vote: Ayes: Commissioners Butner, Hamlin, Head, Parker, Uno, Yee and President Gonzales - 7. Noes: 0.

John T. Betterton
Secretary of the Board
ORDINANCE APPROVING THE TERMS AND CONDITIONS AND AUTHORIZING THE EXECUTION OF A FIFTH SUPPLEMENTAL LEASE AGREEMENT TO GROUND LEASE WITH UNITED STATES OF AMERICA, DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION ADMINISTRATION (“FAA”).

WHEREAS, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the Agenda Report for Agenda Item 6.1, dated October 4, 2012 ("Agenda Report") and related agenda materials, has received the expert testimony of Port of Oakland ("Port") staff, and has provided opportunities for and taken public comment; now, therefore

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

Section 1. The Board hereby approves the terms and conditions of the Fifth Supplemental Lease Agreement to Ground Lease ("Amendment") with the United States of America, Department of Transportation, Federal Aviation Administration ("FAA") to extend lease term for five years, at 1029 Grumman Street (Building L-827,) North, Oakland International Airport, as more fully described in the Agenda Report.

Section 2. In acting upon this matter, the Board has exercised its independent judgment based on substantial evidence in the record and adopts and relies upon the facts, data, analysis, and findings set forth in the Agenda Report and in related agenda materials and in testimony received.

Section 3. The Executive Director is hereby authorized to execute said Amendment subject to the Port Attorney’s approval as to form and legality.
Section 4. 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 Agreement in accordance with the terms of this ordinance. Unless and until a separate written Agreement is duly executed on behalf of the Board as authorized by this ordinance, is signed and approved as to form and legality by the Port Attorney, and is delivered to Lessee, there shall be no valid or effective Agreement.

The Board of Port Commissioners, Oakland, California, October 4, 2012. Passed to print for one day by the following vote: Ayes: Commissioners Butner, Hamlin, Head, Parker, Uno, Yee and President Gonzales – 7. Noes: 0.

John T. Betterton
Secretary of the Board
PORT ORDINANCE NO. 4206

ORDINANCE APPROVING A LICENSE AND CONCESSION AGREEMENT WITH BROTZEIT-LOKAL, LLC FOR THE PREMISES LOCATED AT 1000 EMBARCADERO, OAKLAND, CALIFORNIA WITH A MONTHLY RENTAL REVENUE OF $215,566.

WHEREAS, the Board of Port Commissioners of the City of Oakland (“Board”) has reviewed and evaluated the Agenda Report for Agenda Item 6.2, dated October 4, 2012 (“Agenda Report”) and related agenda materials, has received the expert testimony of Port of Oakland (“Port”) staff, and has provided opportunities for and taken public comment; now, therefore

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

Section 1. The Board hereby approves the terms and conditions of the License and Concession Agreement (“Agreement”) with Brotzeit-Lokal, LLC for the premises located at 1000 Embarcadero, Oakland California as more fully described in the Agenda Report.

Section 2. The Executive Director or his designee is hereby authorized to approve and execute said Agreement and such other agreements as may be appropriate to consummate this transaction, subject to the Port Attorney’s approval as to form and legality, and that the approval be valid for no longer than 120 days from the date of Board authorization, and that if the subject agreements are not fully executed by that date such approval shall be null and void unless further extended at the sole and absolute discretion of the Executive Director or his designee.

Section 3. In acting upon this matter, the Board has exercised its independent judgment based on substantial evidence in the record and adopts and relies upon the facts, data, analysis, and findings set forth in the Agenda Report and in related agenda materials and in testimony received.
Section 4. 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. Unless and until a separate written Agreement is duly executed on behalf of the Board as authorized by this ordinance, is signed and approved as to form and legality by the Port Attorney, and is delivered to Lessee, there shall be no valid or effective Agreement.

The Board of Port Commissioners, Oakland, California, October 4, 2012. Passed to print for one day by the following vote: Ayes: Commissioners Hamlin, Head, Parker, Uno, Yee and President Gonzales – 6. Recused: Commissioner Butner – 1 Noes: 0.

John T. Betterton
Secretary of the Board
INFORMATIONAL REPORT
(This Item is for information only and no action is requested or required of the Board of Port Commissioners.)

<table>
<thead>
<tr>
<th>TITLE:</th>
<th>Annual Change Order Report on Construction Contracts Completed during FY 11/12</th>
</tr>
</thead>
<tbody>
<tr>
<td>BOARD MEETING DATE:</td>
<td>October 18, 2012</td>
</tr>
<tr>
<td>SUBMITTED BY:</td>
<td>Chris Chan, Director of Engineering</td>
</tr>
<tr>
<td>APPROVED BY:</td>
<td>Omar Benjamin, Executive Director</td>
</tr>
</tbody>
</table>

SUMMARY

Port Ordinance No. 1606 requires submission of periodic reports to the Board of change orders issued on Port public works contracts. Attached is the Annual Change Order Report on Construction Contracts Completed during FY 11/12 (Attachment A).

The Annual Change Order Report lists the Change Orders by type and indicates the contract amount and the total value of change orders issued on each contract.

Also, attached for your reference, is a list of change order types with an explanation of each (Attachment B).
Change Order Report on Construction Contracts Completed during FY 11/12

<table>
<thead>
<tr>
<th>Contractor</th>
<th>Resolution No.</th>
<th>Contract Title</th>
<th>Original contract Amount</th>
<th>Final Completion Date</th>
<th>Change Order % of Contract</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bass Electric</td>
<td>10-157</td>
<td>Replacement of Aircraft Noise Monitors</td>
<td>$650,955.00</td>
<td>10/9/2011</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>A.I.P. 3-06-0170-43</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>There were no change orders issued other than to account for bid item variances. The final contract cost including contract bid price and adjusted quantities is $583,315.10.</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Gallagher &amp; Burk, Inc.</td>
<td>11-107</td>
<td>Reconstruction of Apron Between Hangars 1 &amp; 2</td>
<td>$456,950.00</td>
<td>3/21/2012</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>There were eleven (11) change orders issued amounting to $28,775.14. The final contract cost including contract bid price and change orders is $485,725.14</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Change Orders**

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>A - ADMINISTRATIVE</td>
<td>-$1,941.38</td>
<td>-0.42%</td>
</tr>
<tr>
<td>E - PROJECT ENHANCEMENTS</td>
<td>2,205.00</td>
<td>0.48%</td>
</tr>
<tr>
<td>F - FIELD CHANGES</td>
<td>13,185.30</td>
<td>2.89%</td>
</tr>
<tr>
<td>U - UNFORESEEN CONDITIONS</td>
<td>15,326.22</td>
<td>3.35%</td>
</tr>
<tr>
<td><strong>Total Change Orders</strong></td>
<td>$28,775.14</td>
<td>6.30%</td>
</tr>
</tbody>
</table>

**Disadvantaged Business Enterprise (DBE) Utilization Results**

A federally funded project, the construction of Replacement of Aircraft Noise Monitors was totally self performed by BASS Electric. BASS is a certified DBE business (Asian male). 100% DBE participation.

**Local Business Utilization Results**

Subject to the NDSLBUP, the LIA/LBA participation was 42.36%.
# Change Order Report on Construction Contracts Completed during FY 11/12

## AIRPORT

<table>
<thead>
<tr>
<th>Contractor</th>
<th>Resolution No.</th>
<th>Contract Title</th>
<th>Original contract Amount</th>
<th>Final Completion</th>
<th>Change Order % of Contract</th>
<th>Bid Item Quantity Variance</th>
<th>Total Change Orders</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gallagher &amp; Burk, Inc.</td>
<td>9030</td>
<td>Reconstruction of East Apron, Phase 3, Taxi lane</td>
<td>$14,143,060.00</td>
<td>11/1/2011</td>
<td></td>
<td></td>
<td>$7,784,201.63</td>
</tr>
<tr>
<td></td>
<td></td>
<td>Sierra &amp; West Ramp (EAP3) A.I.P. 3-06-0170-47, 49</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>$8,643,134.86</td>
</tr>
</tbody>
</table>

There were fifty-seven (57) change orders issued amounting to $9,427,336.49. The final contract cost including contract bid price, adjusted quantities, AC escalation, and change order work is $22,811,712.63. A deduction amounting to $5,242.43 was assessed due to low compaction test results. The total contract amount including deductions is $22,806,470.20.

**Administrative Change Order (Addition of Bid Alternates D and E per Board Reso. # 09162 and 10-80 Dated 11/17/09 and 7/06/10)**

| REVISED CONTRACT AMOUNT | $21,927,261.63 |

**OTHER CHANGE ORDERS**

<table>
<thead>
<tr>
<th>Category</th>
<th>Amount</th>
<th>% of Contract</th>
</tr>
</thead>
<tbody>
<tr>
<td>A - Administrative</td>
<td>$865,729.59</td>
<td>6.12%</td>
</tr>
<tr>
<td>D - Design Modifications</td>
<td>32,875.50</td>
<td>0.23%</td>
</tr>
<tr>
<td>E - Project Enhancements</td>
<td>130,459.59</td>
<td>0.92%</td>
</tr>
<tr>
<td>F - Field Changes</td>
<td>26,544.00</td>
<td>0.19%</td>
</tr>
<tr>
<td>O - Omissions</td>
<td>101,751.22</td>
<td>0.72%</td>
</tr>
<tr>
<td>P - Project Sponsor Initiated Changes</td>
<td>73,068.44</td>
<td>0.52%</td>
</tr>
<tr>
<td>R - Regulatory</td>
<td>4,500.00</td>
<td>0.03%</td>
</tr>
<tr>
<td>U - Unforeseen Conditions</td>
<td>323,709.02</td>
<td>2.29%</td>
</tr>
<tr>
<td>X - Unrelated Work</td>
<td>84,497.50</td>
<td>0.60%</td>
</tr>
</tbody>
</table>

**Subtotal**

$1,643,134.86

11.62%

**Bid Item Quantity Variance**

$758,683.86

-5.36%

**Total Change Orders**

$884,451.00

6.25%

<table>
<thead>
<tr>
<th>Total Project Budget*</th>
<th>Total Project Expenditure</th>
<th>Variance</th>
</tr>
</thead>
<tbody>
<tr>
<td>$31,933,222.89</td>
<td>$31,525,257.88</td>
<td>$408,665.01</td>
</tr>
</tbody>
</table>

*Total project budget shown includes unallocated OCIP cost in the amount of $832,000.

**Disadvantaged Business Enterprise (DBE) Utilization Results**

A federally funded project with multiple airport improve project grants, EAP3 had a DBE participation level of 7.78%. (Note if this project was under the NDSL/NBP the LIA/LBA SBE and VSBE participation would have been 23.42%).
## Change Order Report on Construction Contracts Completed during FY 11/12

### AIRPORT

<table>
<thead>
<tr>
<th>Contractor</th>
<th>Resolution No.</th>
<th>Contract Title</th>
<th>Original contract Amount</th>
<th>Final Completion Date</th>
<th>Change Order % of Contract</th>
</tr>
</thead>
<tbody>
<tr>
<td>Oshkosh Corporation</td>
<td>10-81</td>
<td>Procurement of Aircraft Rescue &amp; Fire Fighting (ARFF) Vehicles A.I.P. 3-06-0170-54</td>
<td>$1,227,918.00</td>
<td>10/13/2011</td>
<td></td>
</tr>
</tbody>
</table>

There was no change order issued. The final contract cost is $1,227,918.00. Although contract work was considered finally complete on May 18, 2011, training and testing of the vehicles put the closing of the contract in this fiscal year.

### Total Change Orders

<table>
<thead>
<tr>
<th>Total Project Budget</th>
<th>Total Project Expenditure</th>
<th>Variance</th>
</tr>
</thead>
<tbody>
<tr>
<td>$1,690,000.00</td>
<td>$1,394,494.47</td>
<td>$295,505.53</td>
</tr>
</tbody>
</table>

### Disadvantaged Business Enterprise (DBE) Utilization Results

A federally funded project, the ARFF project is a highly specialized manufacturing and production purchase of a rescue vehicle. There are few manufacturers of this type nationwide. There was no DBE participation.

### MARITIME

<table>
<thead>
<tr>
<th>Contractor</th>
<th>Resolution No.</th>
<th>Contract Title</th>
<th>Original contract Amount</th>
<th>Final Completion Date</th>
<th>Change Order % of Contract</th>
</tr>
</thead>
<tbody>
<tr>
<td>Zalda Technology Corp.</td>
<td>09-044</td>
<td>Procurement of Marine Fender Panels Bths 55/56</td>
<td>$203,818.00</td>
<td>7/14/2011</td>
<td></td>
</tr>
</tbody>
</table>

There were two (2) change orders issued totaling $104,120.00. The final contract cost including Contract Bid Price and change orders, is $307,938.00.

**CHANGE ORDERS**

- D-DESIGN MODIFICATIONS* $108,600.00 53.28%
- U - UNFORESEEN CONDITIONS -4,480.00 -2.20%

**Total Change Orders** $104,120.00 51.08%

* The value of change order No. 1 and the relatively high percentage rate is due to the Port's election to purchase an additional eleven (11) fender panels.

### Total Project Budget

<table>
<thead>
<tr>
<th>Total Project Budget</th>
<th>Total Project Expenditure</th>
<th>Variance</th>
</tr>
</thead>
<tbody>
<tr>
<td>$315,000.00</td>
<td>$307,938.00</td>
<td>$7,062.00</td>
</tr>
</tbody>
</table>

### Local Business Utilization Results

Subject to the NDSLBPUP, the procurement of fender panels is highly specialized. There was no local participation and no subcontractors involved. Zalda is located in Hayward, and was formerly certified with the Port as an LBA. Zalda’s certification expired in 2002. Zalda is certified as a micro business with the Department of General Services (is equivalent to the Port’s VSBE.) However, Zalda would not have the same status with us, as Zalda is located in Hayward and had Zalda been certified, they could only claim LBA status.
Change Order Report on Construction Contracts Completed during FY 11/12

Notes, Abbreviations and Acronyms

A.I.P - Airport Improvement Program
Bths - Berths
DBE - Disadvantaged Business Enterprise
LBA - Local Business Area Enterprise
LIA - Local Impact Area = Oakland, Alameda, Emeryville or San Leandro
NDLSBUP - Non-Discrimination and Small Local Business Utilization Policy
SBE - Small Business Enterprise = three year average annual gross revenue of $14,000,000 or less
VSBE - Very Small Business Enterprise = three year average annual gross revenue of $3,500,000 or less

DBE and local business participation percentages are calculated based on the required quarterly reports submitted by the Prime Contractor.
Annual Change Order Report on Contracts Completed in FY 11/12
Attachment A
Annual Change Order Report on Contracts Completed in FY 11/12
Attachment A
Annual Change Order Report on Contracts Completed in FY 11/12
Attachment A

PORT OF OAKLAND

Oakland International Airport, Oakland, California
Reconstruction of East Apron, Phase 3,
Taxilane Sierra & West Ramp
Annual Change Order Report on Contracts Completed in FY 11/12
Attachment A
Annual Change Order Report on Contracts Completed in FY 11/12
Attachment A
### Coding of Change Orders by Type

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>A</td>
<td><strong>Administrative</strong> – Administrative changes such as adding the OCIP Program to the contract, delaying an NTP, non-compensable time extension, or suspending /terminating the work.</td>
</tr>
<tr>
<td>B</td>
<td><strong>Bills to Others</strong> – Work done for and at the expense of others, the cost of which will be billed directly to the responsible party. An example is repair of damage caused by a third party.</td>
</tr>
<tr>
<td>C</td>
<td><strong>Claims Settlement</strong> – Settlement of contractor claims typically relating to things such as overhead or cost related to project time delays. If claims are filed with respect to whether or not an item or work is an extra and an agreement is reached that it is, then that item would be considered as one of the other types of Change Orders.</td>
</tr>
<tr>
<td>D</td>
<td><strong>Design Modifications</strong> – Modifications to the plans and specifications to fit actual field conditions or to make the plans and project specifications conform in the case of conflicting requirements. This will include changes to meet various building code requirements.</td>
</tr>
<tr>
<td>E</td>
<td><strong>Project Enhancements</strong> – Enhancements to projects typically at the request of the Revenue Division to meet the needs of the tenants or for other related business reasons. Examples include additional signage added to a signage contract, providing a more costly piece of equipment, adding more bookcases, or delaying/accelerating a project.</td>
</tr>
<tr>
<td>F</td>
<td><strong>Field Changes</strong> – Modifications to the contract due to out-of-sequence work, phasing changes, additional or modified barricaded/enclosures/equipment, temporary striping, temporary roads, or additional efforts to avoid potential delays.</td>
</tr>
<tr>
<td>O</td>
<td><strong>Omissions</strong> – Errors or omissions to the plans or specifications. An example is missing the need to relocate utilities that are in the way of new columns when the existing utilities can be seen and addressed in the design. Care needs to be taken when deciding between Type D and Type O Change Orders.</td>
</tr>
<tr>
<td>P</td>
<td><strong>Project Sponsor Initiated Changes</strong> – Changes/modifications to projects resulting in changes in construction operations to accommodate tenant/customer requirements during the course of the project. This type of Change Order generally would not alter the final physical production outcome of the project as required by the plans and specifications.</td>
</tr>
<tr>
<td>R</td>
<td><strong>Regulatory/Outside Agency Changes</strong> – Changes/additions to projects due to changed regulatory agency permit requirement such as new Storm Water Discharge BMPs, additional winterization measures, etc. This type of Change Order would also include extra work performed to assist outside agencies, such as utility companies, railroads, airlines, etc., in completing their work on Port projects.</td>
</tr>
<tr>
<td>U</td>
<td><strong>Unforeseen Conditions</strong> – Covers things such as unsuitable subgrade soils or unknown utility lines, or hidden conditions such as unknown asbestos encountered under floors or in walls when doing remodel or demolition work.</td>
</tr>
<tr>
<td>V</td>
<td><strong>Value Engineering</strong> – Changes to the contract initiated by the owner to bring the overall project cost within budget. This also includes changes to contractor-initiated Requests for Substitution.</td>
</tr>
<tr>
<td>X</td>
<td><strong>Unrelated Work</strong> – Work not related to the project being built under the original contract, and would normally be done under separate contract. The purpose is to expedite the new work.</td>
</tr>
</tbody>
</table>
REMAINING ACTION ITEMS

Remaining Action Items are items not previously addressed in this Agenda that may require staff presentation and/or discussion and information prior to action by the Board.
UPDATES & ANNOUNCEMENTS

The President and/or Executive Director will report on noteworthy events occurring since the last Board Meeting.
SCHEDULING

This segment of the meeting is reserved for scheduling items for future Agendas and/or scheduling Special Meetings.