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# PORT OF OAKLAND

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## AGENDA

### MARITIME COMMITTEE MEETING Thursday, JULY 16<sup>th</sup>, 2009 Board Room – 12 Noon

#### ROLL CALL

Commissioner Margaret **Gordon, Chair**  
Commissioner Victor **Uno**  
Commissioner Kenneth **Katzoff**

#### CLOSED SESSION

1. CONFERENCE WITH REAL PROPERTY NEGOTIATOR - As provided under California Government Code Section 54956.8:

Property: Former Oakland Army Base and Adjacent Properties  
Negotiating Parties: Port of Oakland, Burlington Northern Santa Fe and Union Pacific  
Agency Negotiator: Director of Maritime, James Kwon  
Under Negotiation: Price and Terms of Payment

Property: Berths 20-24 Outer Harbor Terminal Facilities  
Negotiating Parties: Port of Oakland and Ports America Outer Harbor Terminals  
Agency Negotiator: Director of Maritime, James Kwon  
Under Negotiation: Price and Terms of Agreement

Property: Berths 33-37 Terminal Facilities  
Negotiating Parties: Port of Oakland and Evergreen Marine Corporation (Taiwan) Ltd  
Agency Negotiator: Director of Maritime, James Kwon  
Under Negotiation: Price and Terms of Payment

Property: Berths 60-63  
Negotiating Parties: Port of Oakland and Eagle Marine Services (APL Terminal)  
Agency Negotiator: Director of Maritime, James Kwon  
Under Negotiation: Price and Terms of Payment

2. CONFERENCE WITH LEGAL COUNSEL – PENDING LITIGATION. Significant exposure to litigation pursuant to subdivision (b) of California Government Code Section 54956.9: 2 matters.

## **ITEMS FOR DISCUSSION AND POSSIBLE ACTION**

A Report - FY2008-2009 - Maritime Financial Results

B Report - Wharfinger Operations

C Report – MAQIP Activities

D Shore Power Presentation

### **E Review of the July 7<sup>th</sup> , 2009 Board Agenda Items**

- 1 Authorization for the Executive Director to Execute a Right Of Entry ("ROE") for a Duration of 90 Days Followed by a Six-month Term Exclusive Negotiating Agreement ("ENA") with Teichert Materials.
- 2 Authorization for the Executive Director to Execute a Six-month Exclusive Negotiating Agreement ("ENA") with AMB/CCG for the Purpose of Negotiating the Final Forms of an Option Agreement and a Master Lease Agreement for a Portion of the Former Oakland Army Base ("OAB") and Other Lands that Comprise Approximately 168 Acres
- 3 Authorization to Enter into a Right of Entry Agreement with The Metropolitan Transportation Commission/Bay Area Toll Authority.

## **ADJOURNMENT**

The next regular meeting is TBD.

## **OPEN FORUM**

The committee may receive public comment on non-agenda items during this time.

Please complete a speaker's card and present it to the Secretary of the committee.

### **Public Participation**

This meeting is wheelchair accessible. To request materials in alternative formats, or to request an ASL interpreter or assistive listening device, please call the Board Secretary, John Betterton, at 510-627-1696 or TDD/TTY – Dial 711 at least three working days before the meeting. Please refrain from wearing scented products to this meeting so attendees who experience chemical sensitivities may attend.

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

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](http://www.portofoakland.com).

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# ITEM A

# MARITIME ACTIVITY

## FISCAL YEAR

### 1. WEST COAST PORTS TOTAL LOADED TEUS: 7/1/08 - 5/31/09

		LB/LA	OAK	SEA/TAC
FY '09	IMPORT	6,070,497	668,384	1,136,353
YTD	EXPORT	2,818,493	799,613	1,121,605
	TOTAL	8,888,990	1,467,997	2,257,958
FY '08	IMPORT	7,123,641	777,482	1,427,582
YTD	EXPORT	3,208,093	872,213	1,319,042
	TOTAL	10,331,734	1,649,695	2,746,624
% INC (DEC) FY '09 vs FY'08 YTD TOTAL		-13.96%	-11.01%	-17.79%

### 2. JIT PERFORMANCE: 7/1/08 - 5/31/09

	BUDGETED YTD LIFTS	ACTUAL YTD LIFTS	% INC (DEC)
JIT	118,960	84,857	-28.7%

### 3. TERMINALS LOADED TEUS PERFORMANCE: 7/1/08 - 5/31/09

	BUDGETED YTD TEUS*	ACTUAL YTD TEUS*	% INC (DEC)
MAERSK (BTHS 20-24)	252,326	177,633	-29.6%
TRANSBAY (BTHS 25/26)	60,250	99,012	64.3%
TRAPAC (BTH 30)	180,564	181,212	0.4%
BERTHS 32-34	N/A	N/A	
NUTTER (BTHS 35-38)	182,026	170,324	-6.4%
HANJIN (BTHS 55/56)	269,248	189,019	-29.8%
OICT (BTHS 57-59)	495,841	490,221	-1.1%
HOWARD (BTHS 67/68)	115,386	82,307	-28.7%
SUBTOTAL	611,227	572,528	-6.3%
APL (BTHS 60-63)	142,649	75,982	-46.7%
<b>TOTAL TEUS</b>	<b>1,698,290</b>	<b>1,465,710</b>	<b>-13.7%</b>

\*Includes approximately four percent for restows and shifts

# MARITIME ACTIVITY

## FISCAL YEAR

### 4. TERMINALS REVENUE PERFORMANCE: 7/1/08 - 5/31/09

	<u>BUDGETED YTD REV</u>	<u>ACTUAL YTD REV</u>	<u>% INC (DEC)</u>
MAERSK (BTHS 20-24)	\$15,056,162	\$15,770,328	4.7%
TRANSBAY (BTHS 25/26)	\$7,400,965	\$7,482,368	1.1%
TRAPAC (BTH 30)	\$8,182,130	\$8,248,759	0.8%
BERTHS 32-34	\$1,789,326	\$785,788	-56.1%
NUTTER (BTHS 35-38)	\$8,780,402	\$8,338,229	-5.0%
HANJIN (BTHS 55/56)	\$22,133,760	\$21,457,387	-3.1%
OICT (BTHS 57-59)	\$34,146,305	\$33,001,246	-3.4%
HOWARD (BTHS 67/68)	<u>\$8,800,044</u>	<u>\$8,826,876</u>	<u>0.3%</u>
SUBTOTAL	\$42,946,349	\$41,828,122	-2.6%
APL (BTHS 60-63)	\$9,702,979	\$9,667,867	-0.4%
JIT	\$2,475,295	\$1,760,240	-28.9%
<b>TTL TERMINAL REVENUE</b>	<b>\$118,467,368</b>	<b>\$115,339,088</b>	<b>-2.6%</b>
<b>OTHER REVENUE</b>	<b>\$8,560,109</b>	<b>\$9,936,401</b>	<b>16.1%</b>
<b>GRAND TOTAL</b>	<b>\$127,027,477</b>	<b>\$125,275,489</b>	<b>-1.4%</b>

# MARITIME ACTIVITY

## CALENDAR YEAR

### 1. WEST COAST PORTS TOTAL LOADED TEUS: 1/1/09 - 5/31/09

		LB/LA	OAK	SEATAC
2009	IMPORT	2,328,381	267,257	436,149
YTD	EXPORT	1,182,178	367,027	496,567
	TOTAL	3,510,559	634,284	932,716
2008	IMPORT	2,958,396	324,892	594,292
YTD	EXPORT	1,522,205	398,492	600,006
	TOTAL	4,480,601	723,384	1,194,298
% INC (DEC) 2009 vs 2008 YTD TOTAL		-21.65%	-12.32%	-21.90%

### 2. JIT PERFORMANCE: 1/1/09 - 5/31/09

	2009 ACTUAL YTD LIFTS	2008 ACTUAL YTD LIFTS	% INC (DEC)
JIT	25,851	50,834	-49.1%

### 3. TERMINALS LOADED TEUS PERFORMANCE: 1/1/09 - 5/31/09

	2009 ACTUAL YTD TEUS*	2008 ACTUAL YTD TEUS*	% INC (DEC)
MAERSK (BTHS 20-24)	73,673	99,618	-26.0%
TRANSBAY (BTHS 25/26)	50,289	31,324	60.5%
TRAPAC (BTH 30)	78,801	85,551	-7.9%
BERTHS 32-34	N/A	N/A	
NUTTER (BTHS 35-38)	74,346	77,038	-3.5%
HANJIN (BTHS 55/56)	73,204	132,815	-44.9%
OICT (BTHS 57-59)	208,975	210,906	-0.9%
HOWARD (BTHS 67/68)	<u>36,325</u>	<u>43,037</u>	<u>-15.6%</u>
SUBTOTAL	245,300	253,943	-3.4%
APL (BTHS 60-63)	38,681	43,094	-10.2%
<b>TOTAL TEUS</b>	<b>634,294</b>	<b>723,383</b>	<b>-12.3%</b>

\*Includes approximately four percent for restows and shifts

## MARITIME ACTIVITY CALENDAR YEAR

### 4. TERMINALS REVENUE PERFORMANCE: 1/1/09 - 5/31/09

	2009 ACTUAL <u>YTD REV</u>	2008 ACTUAL <u>YTD REV</u>	% <u>INC (DEC)</u>
MAERSK (BTHS 20-24)	\$6,916,182	\$6,656,060	3.9%
TRANSBAY (BTHS 25/26)	\$3,461,054	\$2,896,734	19.5%
TRAPAC (BTH 30)	\$3,761,378	\$3,028,153	24.2%
BERTHS 32-34	\$376,825	\$340,405	10.7%
NUTTER (BTHS 35-38)	\$3,906,163	\$4,093,975	-4.6%
HANJIN (BTHS 55/56)	\$10,054,981	\$10,006,020	0.5%
OICT (BTHS 57-59)	\$11,339,878	\$10,671,525	6.3%
HOWARD (BTHS 67/68)	<u>\$4,142,967</u>	<u>\$3,881,948</u>	<u>6.7%</u>
SUBTOTAL	\$15,482,845	\$14,553,473	6.4%
APL (BTHS 60-63)	\$4,369,263	\$3,750,229	16.5%
JIT	\$646,275	\$1,270,850	-49.1%
<b>TTL TERMINAL REVENUE</b>	<b>\$48,974,966</b>	<b>\$46,595,899</b>	<b>5.1%</b>
<b>OTHER REVENUE</b>	<b>\$4,857,423</b>	<b>\$1,752,822</b>	<b>177.1%</b>
<b>GRAND TOTAL</b>	<b>\$53,832,389</b>	<b>\$48,348,721</b>	<b>11.3%</b>

# ITEM B

**Wharfingers Report  
June 2009**

**Chief Wharfinger – Chris Peterson**

- 6/5 Met with PMA to discuss issues surrounding trucker treatment on the Marine Terminals. A letter will be sent to PMA and the ILWU locals addressing this same issue.
- 6/10 Met with the CEDA to discuss issues on the former OAB property.
- 6/10 Met with Paramount Land Company to discuss the Shafter Intermodal Project.
- 6/10 Held the Quarterly Tenants meeting for Maritime customers. Presentations to customers by the Paramount Land Company and CARB.
- 6/11 Represented the Port at the Harbor Safety Committee meeting.
- 6/16 Represented the Port at the Marine Exchange Board meeting.
- 6/22 Sent a letter to PMA and the 4 ILWU Local President's regarding trucker treatment on Marine Terminals. All Commissioners were copied on this letter.

**APM TERMINALS – Phil Granger**

- Berth 22 wharf repair – HDR (APMT's engineering contractor) has submitted engineering plans and applied for permit.
- Ports America working on preliminaries for construction of new entrance and exit gates. Coordinated inspection tour to locate access points for power and data. Next step is clearing utilities for preliminary civil work.
- Port Divers report problems with bolts which attach fenders to face of wharf on berths 23 through 25. Bolts were epoxied in place and appear to be pulling out. Fenders were installed in 2006 as part of the WESP project and should be covered under a five year warranty.

**TTI – Phil Granger**

- Terminal proceeding with plans for opening a back gate. Provided terminal as built drawings for use by Custom's contractors on the RPM installation. Bids will be opened June 30 expect work to start by end of July.

**Trapac – Ralph Reynoso**

- Continuing Project Management support for ongoing construction at TraPac Terminal as part of the Berth 30-33 Gate and Yard Redevelopment Project. Completed 2 additional phases, new entrance

and exit gate. Officially opened on Monday, June 15<sup>th</sup>. Opening was smooth with minor technology issues on the tenants side. Traffic circulation has continually improved with new entrance. Stops at old entrance intersection have been removed eliminating stop and go traffic.

#### **TBCT – Rich Taylor**

- TBCT/ITS have re-evaluated their Berth 24 space assignment requirements. 4.2 acres that were evacuated in June will be rented again commencing in July 2009. Revenue for this space is \$38,745 per month.
- TBCT are working with the Port to obtain approval to expand their truck in-gate capacity with the addition of two additional scales.

#### **Other business (Port Security) – Rich Taylor**

- Ongoing coordination with Beci Electric for installation of phase two of the Wireless Waterside Surveillance System. (Crane mounted cameras) Providing vessel/crane schedules that will assist Beci Electric to manage their work force and minimize the disruption to terminal operations.
- Coordinated with GTSI for the installation of a modular office on 14<sup>th</sup> Street. This will be used by GTSI, over the next 12 months, during design and construction of the Intrusion Detection System and Fiber Optic Communication System.
- Gave a port tour to staff from the Netherlands Business Development Office and Holland Container Innovations, who were promoting the development of their new collapsible container concept.

#### **OAKLAND ARMY BASE – Bob Cathey**

- Truck Parking Area continued to run at capacity. C-1 expansion site became available June 24. A major user of the lot has found another site outside the Port area. Expect temporarily significant revenue reduction starting in July.

#### **Other Areas and Issues - Bob Cathey**

- Initiated inspection of Berth 10 for use as a dredging spoils processing site after discovering a hole in the dock and some exposed rebar. Preliminary results indicate we will be able to continue use. There may be some constraints on parts of the berth.
- Attended Port Readiness Committee meeting. Provided input on Navy's proposal to relocate their local Fleet Readiness contact.
- Attended Trucker Work Group meeting. Major issues were update from TBCT on easing the congestion in front of their terminal and request for update from SSAT on RFID implementation.

**ITEM C**

**Maritime Air Quality Improvement Plan (MAQIP) Monthly Report  
July 2009**

**TRUCKS**

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**Early Action Retrofit of Port Drayage Trucks**

Port staff is working with truck owners to assist them in meeting a California Air Resources Board (CARB) regulatory deadline of January 1, 2010 that mandates cleaner drayage trucks.

- Trucker outreach center
  - Opened on May 4 in the Port's maritime area to provide information on Port Truck Retrofit Program grants
  - Administered by the Bay Area Air Quality Management District (BAAQMD) with assistance from the Port.
  - Number of truck driver visits to the center: 700
  - Number of applications distributed: 750
  - Number of applications received since Center opened: 204
  - Retrofit grants contracts issued: 163
  - Amount of grant funding allocated: \$2.58 million
- Public funding for trucks
  - Up to \$10 million from CARB's Proposition 1B Goods Movement Emission Reduction Program (Prop 1B)
  - \$5 million from Port (FY09)
  - \$5 million from BAAQMD's Transportation Fund for Clean Air
  - \$2 million from U.S. Environmental Protection Agency's Diesel Emissions Reduction Act grant program to BAAQMD for truck retrofits and replacements, with a focus on drayage trucks serving the Port.
  - Total funding of \$22 million can retrofit up to 1,100 trucks, depending on the cost of the retrofits and program timing.

**Comprehensive Truck Management Program (CTMP)**

The CTMP was approved by the Board on June 16. The Board directed staff to prepare an ordinance for a truck ban consistent with CARB deadlines. The ordinance will be presented to the Board in Fall 2009.

**LNG truck program**

Due to the economy, the private sponsor of the LNG truck program is unable to continue in that role. Staff is reviewing feasibility of the program.

**SHIPS**

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**Shore Power Infrastructure**

Port staff is embarking on planning and design of common area electrical infrastructure and marine terminal infrastructure to meet a CARB regulatory deadline of January 1, 2014 that mandates use of shore power for ships at berth (50% use in 2014, up to 80% use in 2020).

- Joint grant applications for shore power infrastructure were submitted to the U.S. Department of Energy and the California Energy Commission by the Ports of Oakland, Los Angeles and Long Beach. Oakland's request is for up to \$17 million.
- Staff are preparing an application to the U.S. Department of Transportation's Transportation Investment Generating Economic Recovery (TIGER) Discretionary Grant Program for shore power infrastructure and possibly barging infrastructure in support of the

Maritime Administration's Marine Highway initiative. The funding request is about \$30 million.

- APL is slated to receive an approximately \$2.8 million grant for landside shore power facilities from CARB's Prop 1B grant program, administered by the BAAQMD. APL has also been awarded a \$2 million grant for three ship retrofits to accommodate shore power. Funding for those retrofits will come from the BAAQMD's Carl Moyer Program.
- Informational briefing on shore power for the Board is scheduled for July 21.

## **RAIL**

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### **Low emission switcher engines**

BNSF Railway is continuing to review contract documents for participation in a Port-sponsored program to replace engines in two switcher locomotives with new clean-burning gensets for exclusive use at the Port-owned Oakland International Gateway rail yard.

## **MONITORING AND REPORTING**

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### **Emissions Inventory**

An update of the Port of Oakland 2005 Seaport Air Emissions Inventory using 2008 maritime business activity is underway, with completion expected in December 2009. The consultant that prepared the 2005 report, ENVIRON International Corporation, is working with Port staff to collect updated information. The update methodology will be reviewed with CARB and BAAQMD to ensure that the air quality agencies are in agreement with the technical approach.

### **Ambient Air Quality Monitoring**

The Port is sponsoring an upwind ambient air quality monitoring site to assist the BAAQMD in its West Oakland monitoring program. Staff also worked with BAAQMD to locate a monitor in the harbor area as part of the same program.

### **Coordination with the BAAQMD**

Port staff met with BAAQMD executive, policy and enforcement staff on June 17 and on July 1 to discuss a joint work program for air quality reduction measures, compliance and funding that will be the basis of a more formal agreement between the Port and the BAAQMD. Staff are jointly preparing a list of near-term projects to which both agencies can contribute expertise or resources.

### **Internal air quality coordination**

Meetings to discuss maritime air quality progress and issues are held twice each month, with representatives from the Port's Maritime, Environmental Programs and Planning, Social Responsibility, Executive, Corporate Administrative Services and Engineering Divisions. This is the primary forum for Port staff to coordinate emissions reduction efforts, report on project and plan status and share information pertaining to air quality policies and concerns.

### **Maritime Stakeholders Group**

The Port is in the outreach and design phase of creating a single opportunity for continued public involvement on Port Maritime projects, with particular attention to MAQIP and CTMP. Approximately 75 stakeholders have been identified by the Port to participate in an outreach

process to inform the design of a Port Maritime stakeholder forum. Initial outreach to these stakeholders included participation in an on-line survey and an invitation to participate in a focus group or identify others who should be invited to participate. A series of focus group sessions were just completed with the following sector-based groups: Maritime industry, Trade and Logistics industry, Mayor's Task force, Regulatory/Inter-agencies, Impacted residents, Small/Local & Regional Trade Associations, Labor & Workforce, Non-Governmental based Organizations (NGO's) and Environmental Advocates and Other Corridor Communities. The sessions were conducted by Viveka Chen & Associates. Report of findings will be submitted by early September 2009. The Port's Social Responsibility Division is overseeing the administration and creation of this single maritime stakeholder forum in close in close coordination with the Port Maritime Division and Executive Office.

### **Trailer Donation for Trucker Outreach Services**

The CTMP adopted by the Board June 16, 2009, identified the donation of a trailer to a local non-profit that would be used for the purpose of trucker outreach. Port staff has received informal proposals from local non-profits wishing to receive this donation. Port staff is in current discussions with a West Oakland-based non-profit. As a condition of the donation, the local non-profit will have to use the trailer for the purpose of trucker outreach and technical assistance in meeting CARB regulations over a three year period to conclude June 30, 2013. Port staff plans to submit an agenda report for the trailer donation for the Board meeting on July 21, 2009.

# ITEM D



**PORT OF OAKLAND**

## Informational Briefing Shore Power Program

July 16, 2009 & July 21, 2009

Presented to:

Maritime Committee

Board of Port Commissioners

Port of Oakland Shore Power Program

## Our Strategy

- Implement MAQIP
  - Improve air quality
  - Contribute to implementation of State regulation
- Maintain price/service parity with other west coast ports
  - Avoid competitive disadvantage
- Collaborate with private and public entities to fund and construct infrastructure

Port of Oakland Shore Power Program

## “Shore Power” Regulation

- State law promulgated by CARB
- Does not specify technology
  - Requires *emission* reduction
  - Requires earlier compliance if grid power is not selected
  - Grid power strongly preferred by industry
- Grid power option requires:
  - Jan. 1, 2014 – approx. 50%\* of ships plug in
  - Jan. 1, 2017 – approx. 70%\*
  - Jan. 1, 2020 – approx. 80%\*

\* Percentages are approximate and will likely be higher due to related compliance requirements and vessel operations

Port of Oakland Shore Power Program

## Legal Considerations

- Vessel fleet owners (carriers) are primary regulated entities:
  - Must submit compliance plans to CARB by July 2013
  - Must reduce emissions
  - Carriers with less than 25 calls/year are exempt
- Marine terminals have limited requirements
  - Must submit compliance plans to CARB by July 2009
- Port has very limited requirements
  - Must report data on each vessel call to Oakland (e.g. time at berth, berth assignment, etc.)
- Regulation acknowledges need for all parties to work cooperatively

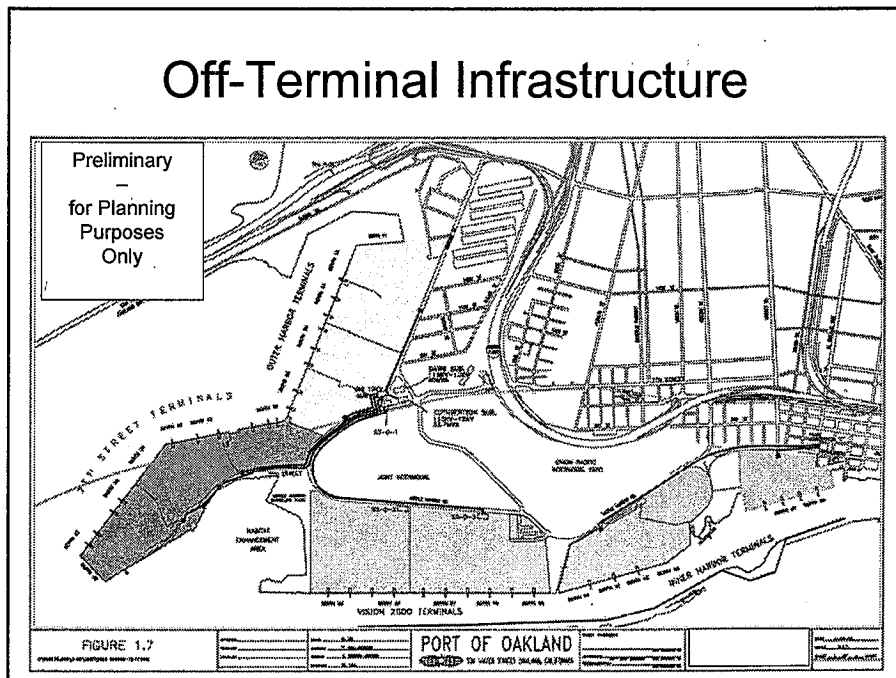
Port of Oakland Shore Power Program

# Port Business Considerations

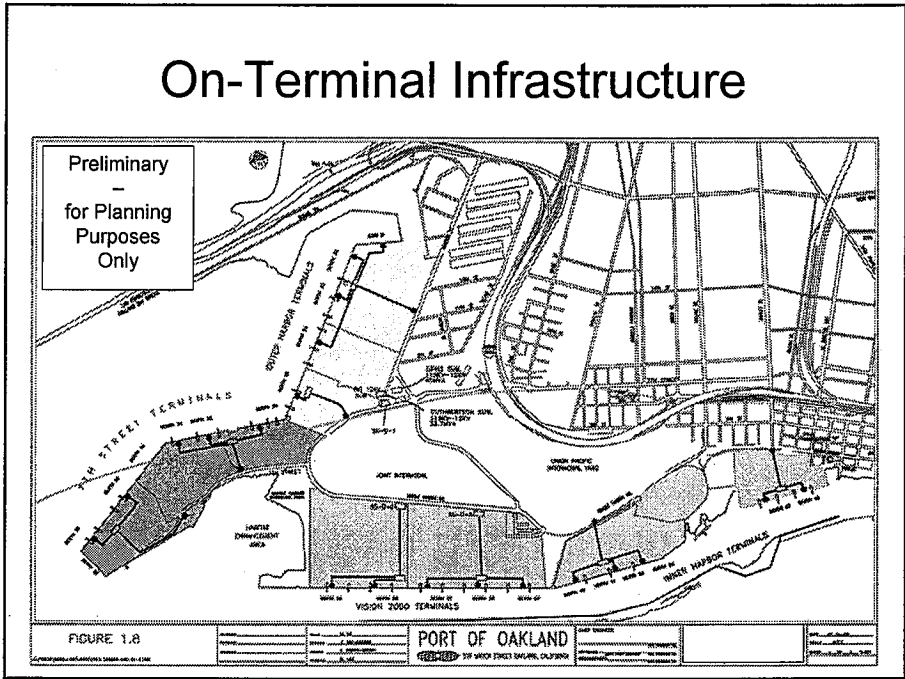
- Terminal operators/carriers expectations
  - Utility infrastructure
  - Business risk if infrastructure isn't in place
- Infrastructure costs are high, capital intensive
- Port and PG&E have shared service area
- Off-terminal vs. on-terminal infrastructure - issues:
  - Shared "backbone" infrastructure
  - Marine terminal operator investments
  - Marine terminal lease term vs. life of infrastructure

Port of Oakland Shore Power Program

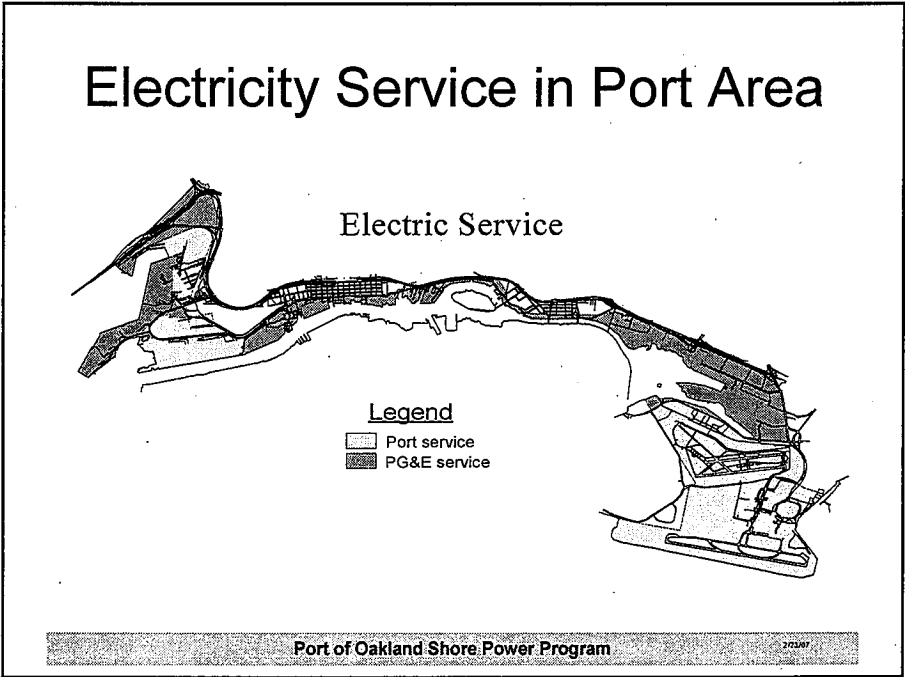
## Off-Terminal Infrastructure



# On-Terminal Infrastructure



# Electricity Service in Port Area



## Port-Wide Electricity Business FY07-08

• Revenue:	\$7.9M
• Cost of sales:	\$4.0M
• Expenses:	\$2.1M
– Depreciation/Interest (\$1.0M)	
– Labor (~ 7 FTEs) (\$1.1M)	
➤ <b>Net revenue:</b>	<b>\$1.8M</b>
➤ <b><u>Maritime</u> net revenue:</b>	<b>\$850K</b>

Port of Oakland Shore Power Program

## Key Issues & Challenges

- Competitiveness & price/service parity
- Preliminary est. program cost: \$200 million
  - \$50 million off-terminal
  - \$150 million on-terminal
- Determine power service plan to each berth
  - Provider, power demand
  - Revenue/costs (Port and tenants)
- Marine terminal contribution to program
- Schedule
- Funding and financing

Port of Oakland Shore Power Program

## Schedule Challenge

- Program requires:
  - 18 months: lead time for procurement of equipment
  - 12 months: design
  - 18 months: construction & commissioning
- Total = 4 years to design/build/commission
  - Need to start work today (2010-2014)
- Certain funding sources require shorter delivery time (i.e. earlier completion)
  - Accelerate (2012) timeline for select portions of work

Port of Oakland Shore Power Program

## Funding Strategy

Estimated \$200 million cost  
Incremental and multi-source approach to funding  
Cash flow is critical due to schedule

### Potential \$ Sources

- Port CIP
- Stimulus Programs
- State Prop. 1B
- Other grants
- PG&E
- Tenants & customers
- Other private funds
- Port fees

Port of Oakland Shore Power Program

## Identified Funding

Funding Source	\$ (millions)
Port CIP	\$52
Port application to DOE	\$12
Port application to CEC	\$5
Port application for TIGER	\$30
APL grant from Prop 1B	\$3
Outer Harbor concession	\$25
Total:	\$130

Current funding gap: \$70 million

Port of Oakland Shore Power Program

## Engineering Approach

- Utilize existing infrastructure and capacity where possible
- Standardize design consistent across California ports
- Use Port CIP (FY10) to start work
  - Evaluate resource needs for program
  - Subject to approval, begin detailed design immediately using existing consultant contracts
  - Secure environmental approvals
- Streamline agreements with designers, contractors, and vendors
- Expedite grant-funded portions of program

Port of Oakland Shore Power Program

## Preliminary Schedule

Planning, Coordination with Outside Parties/Marine Terminal Operators and Preliminary Design, Start Environmental Approvals	6 Months	July 2009 - Dec. 2009
Complete Design; Finish Environmental Approvals; Procurement of Long Lead Electrical Equipment; Bidding & Award of Construction Contract (on & off terminal work as applicable) (expedite as required by grants)	18 Months	Jan 2010 - July 2011
Connection to on-terminal systems; Construction & Installation of Long Lead Electrical Equipment (expedite as required by grants)	22 Months	Aug 2011 – Jun 2013
System Testing and Commissioning	6 Months	July 2013 – Dec. 2013
Deadline for ships to plug in to grid (earlier as required by grants)		January 1, 2014

Port of Oakland Shore Power Program

## Key Next Steps

- Next six months:
  - Critical path: design contract
  - Secure environmental approvals
  - Develop electricity service plan
  - Refine program scope of work & cost estimates
  - Focus on delivering grant-funded portions by 2012
  - Determine tenant contributions (close the funding gap)
- On-Going:
  - Continue to pursue external funding sources
  - Monthly updates to Board

Port of Oakland Shore Power Program

# Questions & Comments

Port of Oakland Shore Power Program

# ITEM E1

## **DRAFT AGENDA REPORT**

**TITLE:** Authorization for the Executive Director to Execute a Right Of Entry ("ROE") for a Duration of 90 Days Followed by a Six-month Term Exclusive Negotiating Agreement ("ENA") with Teichert Materials

**AMOUNT:** \$125,000 (Revenue)

**PARTIES INVOLVED:**

<b>Corporate Name</b>	<b>Location</b>
Port of Oakland	Oakland, California, USA
Teichert Materials	Sacramento, California, USA

**TYPE OF ACTION:** Resolution

**SUBMITTED BY:** James Kwon

**COMMITTEE ASSIGNED:** Maritime Committee

**HEARD BY COMMITTEE:** Maritime Committee on July 16, 2009

**APPROVED BY:** Omar Benjamin, Executive Director

### **FACTUAL BACKGROUND**

With the approval of the Maritime Committee at its August 28, 2008 meeting, Port staff conducted an Request for Qualifications ("RFQ") process for prospective respondents to formally express their interest in entering into a six-month term ENA with the Port of Oakland (the "Port") for Berth 33 and the related backlands totaling approximately 15 acres in "as is" condition including berth depth. The RFQ process ensued on September 26, 2008 and final RFQ submittals were due by October 24, 2008. After careful evaluation of the RFQ submissions, a selection committee selected Teichert Materials as the successful respondent and, subsequent to Port staff recommendation, the Board authorized the Executive Director to enter into a six-month term ENA with Teichert Materials beginning January 1, 2009 and expiring July 1, 2009 for utilization of approximately 15 acres of the Berth 33 area on November 19, 2008 under Resolution 08229.

Thereafter, Port staff from various divisions including Maritime, Environmental, Engineering, and Legal, collaborated and drafted the proposed ENA incorporating many of the goals and objectives stated in the RFQ. The coordination of this collaborative effort and the subsequent drafting of the ENA took longer than anticipated. Furthermore, Teichert Materials required additional time to review the draft ENA and made several suggested revisions. The revisions proposed by Teichert required additional review by Port staff and therefore it was not possible

to execute the six-month term ENA on January 1, 2009 as approved by the Board in Resolution 08229.

On April 7, 2009, the Board authorized the adjustment of the commencement date of the six-month term ENA with Teichert Materials to be executed on or before July 1, 2009 to allow additional time to continue discussions with Teichert to finalize the terms of the ENA. After several additional meetings, Teichert proposed a two-phase approach that would allow them to complete some initial investigation of the Berth 33 property before investing further resources.

In the first phase, Teichert Materials would submit a non-refundable payment of \$25,000 to the Port upon execution of a 90-day ROE. During the term of the ROE, the Port would allow Teichert Materials and its consultants to review pertinent information related to the Berth 33 premises and Teichert Materials would retain a third party consultant to prepare a geotechnical study with particular attention to possible limitations on the storage of aggregates and other bulk construction materials on the BART easement that passes through the Berth 33 premises.

Teichert Materials will be responsible for all disposal of any soil extracted and must provide the Port with copies of any reports generated as a result of the investigation. Teichert will submit the proposed geotechnical investigation plan to the Port for review and approval before beginning the work. Teichert will not perform geotechnical tests in the area of the proposed entrance/site-access where it is known to have contained underground storage tanks.

If the results of the analysis and research are favorable to the future development and proposed use of the site, then Teichert Materials would enter into a six-month term ENA with the Port in which they would continue to perform due diligence, and prepare and submit an operating plan for Port's review. This will allow Port staff to decide at that time if the proposed operating plan and the negotiated compensation terms are feasible, and if development of a nonexclusive preferential assignment agreement ("NEPAA") with Teichert Materials is desirable.

As originally contemplated, Teichert Materials would be required to submit a security deposit in the amount of \$100,000 upon execution of the ENA that would compensate the Port for any resources utilized during the due diligence period, should Teichert Materials decide not to proceed with a lease agreement for the Berth 33 area.

## **ANALYSIS**

The aforementioned two-phase process will provide greater certainty of the viability of the proposed development and use at Berth 33 earlier in the process, conserving resources for both the Port and Teichert Materials should the geotechnical analysis determine that the project is infeasible. Furthermore, the payment of \$25,000 will assist to offset Port administrative costs during the ROE term.

After several meetings with Teichert Materials regarding the possible site constraints, Port staff believes that it may be very difficult to conclude the ENA, as originally contemplated, without the proposed ROE.

**BUDGET & FINANCIAL IMPACT**

Teichert Materials will submit a non-refundable payment of \$25,000 for the execution of a 90-day ROE.

If an ENA is executed after the ROE, Teichert Materials would be required to submit a security deposit in the amount of \$100,000 that would compensate the Port for any resources utilized during the ENA period, should Teichert Materials decide not to proceed with a lease agreement for the Berth 33 area.

If the project is determined to be infeasible or if the Port and Teichert Materials cannot agree on the terms of a lease during the ENA period, then 50% of the security deposit would be returned to Teichert Materials.

If the Port decides to not proceed with a lease agreement or if a lease agreement is successfully negotiated then 100% of the security deposit will be credited to Teichert Materials.

These funds would be in addition to the forecasted Maritimes FY09 revenues.

**STAFFING IMPACT**

No staffing impact is anticipated.

**SUSTAINABILITY**

Entering into a ROE and an ENA does not provide any immediate benefit to the Port or community but a future lease for vacant land will improve the Port's financial standing and thus its economic sustainability.

**ENVIRONMENTAL**

The California Environmental Quality Act (CEQA) Guidelines, Section 15061(b)(3) ("the general rule") states that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment, the activity is not subject to CEQA. Approving a ROE and ENA with Teichert Materials to allow the company to assess the viability of their proposal for use of approximately 15 acres at Berth 33, therefore, is not a project under CEQA and no environmental review is required. If Teichert decides to pursue a lease with the Port for the property at the conclusion of their review, further environmental review of the impacts of the operation will be required, and the project will be brought to the Board for approval of CEQA findings at that time.

In addition, Port staff will review and analyze impacts on air quality and traffic within the port area and present the analysis to the Board should a recommendation be put forward to proceed with a Non-Exclusive Preferential Assignment Agreement (NEPAA) with Teichert Materials.

**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)**

Entering into an Exclusive Negotiating Agreement does not fall within the scope of OCIP and the provisions of OCIP do not apply.

**GENERAL PLAN**

This action does not authorize any construction on the site and does not meet the definition of "project" under the City of Oakland General Plan. Therefore, the action does not require a General Plan conformity determination pursuant to Section 727 of the City of Oakland Charter.

**LIVING WAGE**

Based upon a review of the terms of the agreement and information provided by the tenant, it appears that living wage requirements do not apply (tenancy agreements are not subject to Port Ordinance No. 3666; Section 728 of the Charter does not apply to tenants that employ fewer than 21 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 all of its obligations.

**OPTIONS**

- 1: The Board may choose to not authorize the Executive Director to execute a ROE for a duration of 90 days followed by a six-month term ENA with Teichert Materials;
- 2: The Board may choose to not authorize the Executive Director to execute a ROE for a duration of 90 days with Teichert Materials but authorize the Executive Director to execute a six-month term ENA with Teichert Materials;
- 3: The Board may choose to authorize the Executive Director to execute a ROE for a duration of 90 days followed by a six-month term ENA with Teichert Materials.

**RECOMMENDATION**

It is recommended that the Board authorize the Executive Director to execute a ROE for a duration of 90 days followed by a six-month term ENA with Teichert Materials.

# ITEM E2

## **DRAFT AGENDA REPORT**

**TITLE:** Authorization for the Executive Director to Execute a Six-month Exclusive Negotiating Agreement ("ENA") with AMB/CCG for the Purpose of Negotiating the Final Forms of an Option Agreement and a Master Lease Agreement for a Portion of the Former Oakland Army Base ("OAB") and Other Lands that Comprise Approximately 168 Acres

**AMOUNT:** \$0

**PARTIES INVOLVED:**

<b>Corporate Name</b>	<b>Location</b>
AMB Property Corporation	San Francisco, CA
California Capital Group	Oakland, CA

**TYPE OF ACTION:** Resolution

**SUBMITTED BY:** James Kwon

**COMMITTEE ASSIGNED:** Maritime Committee

**HEARD BY COMMITTEE:** Maritime Committee on April 16, 2009

**APPROVED BY:** Omar Benjamin, Executive Director

### **FACTUAL BACKGROUND**

In December of 2008, the Board of Port Commissioners ("Board") authorized the release of a Request for Qualifications ("RFQ") for a Master Lease for the Port-owned portions of the former Oakland Army Base ("OAB") property. On January 9, 2009 a RFQ (the "January RFQ") was advertised with responses due on February 27, 2009. The business model that was envisioned and advertised in the January RFQ anticipated that the winning proposer would be offered the opportunity to enter into a six-month Exclusive Negotiating Period ("ENA") with the Port, with the ultimate goal being to negotiate and finalize a Master Lease Agreement for the winning proposer to assume all operation, maintenance and development obligations of the property on January 1, 2010. On February 27, 2009, the Port received four responses to the January RFQ. However, none of the responses offered to enter into a lease and assume the operation and maintenance responsibilities of the property commencing on January 1, 2010. Nonetheless, all the responses indicated a desire to take part in the future development of the property.

As a result of the responses to the January RFQ, in April, 2009, the Board terminated the January RFQ process and authorized staff to issue a new RFQ (the "New RFQ") which incorporated a different business model geared more toward the future development potential of the site rather than the immediate lease, operation and maintenance transfer of the property. Staff issued the New RFQ on May 8, 2009 and set June 12, 2009 as the deadline for responses. The New RFQ sought a highly experienced developer with strong financing capacity to develop the Port-owned portion of the OAB. The New RFQ asked respondents to submit credentials, relevant qualifications, and conceptual development proposals to design, construct, finance, operate and maintain facilities on the OAB in a manner that supports and enhances maritime activity at the Port. The New RFQ anticipated that the winning proposer would enter into a six-month term ENA with the Port with the intention of conducting further due diligence of the property as well as negotiating the terms of an Option Agreement and the terms of a Master Lease Agreement ("MLA"), which would be attached to the Option Agreement (an ENA-Option-Master Lease model). A draft of both the Option Agreement and form MLA were included as exhibits to the New RFQ document. If after selection of a winning proposer the ENA negotiations prove successful, Port staff would then present the Option Agreement and MLA to the Board for its consideration. The MLA would have a term of at least 30 years. However, the winning proposer would not be able to exercise its option to enter into the MLA until certain conditions were satisfied, including without limitation, the satisfaction of certain conditions precedent, including the satisfaction of various predevelopment and performance milestones and the successful completion of entitlement tasks during the Option Term. Throughout the ENA and during the Option Agreement until the conditions precedent to the exercise of the option have been satisfied and the option is exercised, the Port will continue to operate and maintain the OAB property with the Optionee focusing on the future development aspects of the site.

The Port received three responses to the New RFQ: AMB/CCG (a joint venture between AMB Property Corporation and California Capital Group), CenterPoint Properties, and Ports America Outer Harbor Terminal, LLC. ("Proposer Teams"). On June 30, 2009, a seven-member selection panel consisting of four port staff and three external experts interviewed the Proposer Teams. The Port staff panelists represented diverse experience in maritime, commercial real estate, social responsibility, and environmental policy. The three external panelists had expertise in the areas of finance, maritime commerce, and local community stakeholder issues. The interviews with the Proposer Teams were filmed and the public was able to observe the interviews via live broadcast to a monitor in a separate meeting room location. DVD recordings of the interviews are also available to the public upon request.

## **ANALYSIS**

Section 2.4.2 of the New RFQ identifies the evaluation criteria for submittals. A summary of these criteria is as follows:

- 1) Cover Letter: Names of team members, key terms of the proposal, certification of proposer's understanding of Port policies (MAQIP, CTMP, the living wage ordinance, NDSLBU, prevailing wage, MAPLA), proposer's confirmation of their access to review all documents on the RFQ website, certification of awareness of DTSC rights with

respect to the property, and acknowledgement of the development milestones in the Option Agreement.

- 2) Proposer and Team Member Information: Team member descriptions and legal relationships, roles of each team member, identification of local team members, identification of equity participation members of team, potential partners of team, major or controlling interest holders in proposer, legal and financial advisors of team, and references.
- 3) Operation of Existing Facilities and Long-Term Business Plan: Description of the future redevelopment vision for the OAB property including business goals and objectives, commitment to improving air quality, utilization of "clean and green" sustainable technologies, compliance with the BCDC 15 acre requirement and Right of First Negotiation, local community benefits of proposal, how the proposal will conform to the development milestones in the Option Agreement and support and enhance maritime activity at the Port including on-dock rail and other Port supported TCIF projects.
- 4) Technical Capability: Description of team members' experience and knowledge of the property, comparable capital improvement projects and industrial or infrastructure project experience of the team, successful public/private development project experience, development project experience in Oakland or SF Bay Area, remediation and regulatory oversight experience, knowledge and experience with applicable laws and regulations affecting the property, transportation logistics knowledge and experience, management of labor relations experience, community benefits experience, experience with "clean and green" sustainable technologies, air quality improvement project knowledge and experience, relationship management experience with environmental stakeholders.
- 5) Financial Capability: Explanation and analysis of the key financial terms of the proposal including annual rental amount, participation or variable rent, lease term and long-term business plan for redevelopment. Demonstration of the financial capacity and ability to pay the rental amounts including credit quality and financial resources to successfully manage, operate, maintain and redevelop the property. Demonstration of the ability to raise at least \$500 million to finance the long-term business plan, identification of competing financial or other resource demands, identification of the number and size of past relevant transactions, and an explanation of how financing was obtained for past relevant transactions.

None of the three Proposer Teams submitted an executed Proposer's Offer and Representations Agreement form agreeing to unconditionally and irrevocably offer to enter into the ENA in the final form posted with the RFQ. Therefore, Port staff will draft a more general form of the ENA to allow the Port and the winning proposer to negotiate the key terms of the Option Agreement and MLA during the six-month term.

The review panel evaluated all three Proposer Teams based upon the foregoing criteria. A scale of 0 to 100 points was established by which each panelist was asked to score each Proposer Team according to the following categories:

<b>Evaluation Criteria</b>	<b>Maximum Points</b>
Cover Letter	10
Proposer and Team Member Information	10
Operation of Existing Facilities and Long Term Business Plan	20
Technical Capability	20
Financial Capability	40
<b>Total Maximum Points Available</b>	<b>100</b>

Each Proposer Team could score a maximum of 100 points from each panelist. There were seven panelists evaluating each submittal, therefore each Proposer Team had the potential to receive 700 points maximum from the entire review panel. Below is the summary of the review panels' scoring of each team:

<b>Proposer Team</b>	<b>Total Points / Average</b>
AMB/CCG	533 / 76.14
CenterPoint Properties	527 / 75.29
Ports America	379 / 54.14

AMB/CCG received the highest score among the Proposer Teams from the review panel.

AMB Property Corporation ("AMB") and California Capital Group ("CCG") have proposed to form a joint venture under the name "AMB/CCG" that combines the experience of development, leasing and management of industrial logistics real estate on a global scale with the experience of a strong local developer and investor. AMB and CCG are headquartered in San Francisco and Oakland respectively. AMB has completed numerous port developments around the world including developments at the Port of Hamburg (Germany), Port of Rotterdam (Netherlands), Port of Osaka (Japan); and domestically at the Port of Savannah (Georgia), Port Elizabeth (New Jersey), Ports of Los Angeles, Long Beach, and San Francisco (California) and Port of Tacoma (Washington). CCG has owned and operated over two million square feet of commercial office buildings with hundreds of tenants throughout Northern California and has recently completed renovating the historic Fox Theater and the historic Rotunda building and developed the Rotunda Garage in Oakland among other Oakland projects.

The proposed operation and development plan submitted by AMB/CCG is in alignment with the objectives and goals stated in the RFQ which will enhance maritime activity at the Port in a sustainable manner with a strong commitment to improving air quality and local community benefits. Additionally, AMB and CCG are experienced in transforming complex environmentally challenged sites back to productive use and are familiar with the local and state environmental regulatory agencies, environmental planning and permitting requirements, and environmental insurance. AMB/CCG's depth of experience in wide-ranging industrial logistics development, strong technical and financial capability, an operation and development plan consistent with Port goals, and established global as well as local presence, helped to make AMB/CCG's proposal the highest scoring among the Proposer Teams.

The Port is pleased to have received strong interest and very competitive proposals in this solicitation process and the submissions from the Proposer teams have validated the appeal and importance of the future development of the OAB. Based on the results of the RFQ selection process, staff recommends that the Board authorize the Executive Director to execute an ENA with AMB/CCG as the winning proposer.

Attached for reference is the proposed tentative timetable of next steps in this process.

**BUDGET & FINANCIAL IMPACT**

Staff costs and legal costs associated with the execution of an ENA, negotiation of an Option agreement and MLA are budgeted under M7.00912.01. The Port has budgeted \$300,000 for this process including the prior work to draft and release the RFQ.

**STAFFING IMPACT**

There is no staffing impact associated with the execution of an ENA.

**SUSTAINABILITY**

There are no immediate sustainability benefits achieved by this ENA.

**ENVIRONMENTAL**

The subject action by the Board of Port Commissioners was reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines (Ordinance No. 2581). The California Environmental Quality Act (CEQA) Guidelines Section 15378(2), Project states "Project" means the whole of an action, which 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 CEQA Guidelines also states that CEQA applies only to activities that have a potential for causing a significant effect on the environment. It can be seen with certainty that there is no possibility that authorizing the Executive Director to Execute a Six-month Exclusive Negotiating Agreement ("ENA") with AMB/CCG for the Purpose of Negotiating the Final Forms of an Option Agreement and a Master Lease Agreement for a Portion of the Former Oakland Army Base ("OAB") and Other Lands that Comprise Approximately 168 Acres will result in a physical change in the environment; therefore, it is not subject to CEQA. The above-described agenda item will not result in a significant adverse effect on the environment, thus no further environmental review is necessary for this proposed Board action.

Furthermore, CEQA documents have been prepared evaluating the re-use of the former OAB property for maritime and transportation facilities. The City of Oakland, as the Lead Agency under the California Environmental Quality Act ("CEQA"), certified its Oakland Army Base Area

Redevelopment Plan Final Environmental Impact Report ("EIR") on July 31, 2002. The Board, acting as a Responsible Agency under CEQA, on September 17, 2002 (Resolution No. 02317), approved the Port's reuse of the OAB as described in the EIR. The project described by the EIR includes Port operation, maintenance, and development of its portion of the former army base for maritime-related uses. Appropriate mitigation measures were developed for construction and operation of the maritime-related uses. All projects, additionally, 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).

The ENA with AMB/CCG as described above in this Agenda report does not represent a significant change in the land use or project description of the OAB EIR. In the future, when specific projects, lease agreements, or land uses are proposed for the Port portion of the former army base, Port environmental staff will determine whether further environmental review is required, and will bring the project to the Board for additional findings under CEQA, if needed. No further or additional environmental review or documentation is necessary in order for the Board to take the actions recommended in this Agenda Report.

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

The matters contained in the 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)**

Entering into an Exclusive Negotiating Agreement does not fall within the scope of OCIP and the provisions of OCIP do not apply.

#### **GENERAL PLAN**

This action does not authorize any construction on the site and does not meet the definition of "project" under the City of Oakland General Plan. Therefore, the action does not require a General Plan conformity determination pursuant to Section 727 of the City of Oakland Charter.

#### **LIVING WAGE**

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

**OPTIONS**

- 1: The Board may choose to not authorize the Executive Director to execute a six-month ENA with AMB/CCG for the purpose of negotiating the final forms of an Option Agreement and a Master Lease Agreement for a portion of the OAB and other lands that comprise approximately 168 acres;
- 2: The Board may choose to authorize the Executive Director to execute a six-month ENA with one of the other Proposer Teams for the purpose of negotiating the final forms of an Option Agreement and a Master Lease Agreement for a portion of the OAB and other lands that comprise approximately 168 acres; or
- 3: The Board may choose to authorize the Executive Director to execute a six-month ENA with AMB/CCG for the purpose of negotiating the final forms of an Option Agreement and a Master Lease Agreement for a portion of the OAB and other lands that comprise approximately 168 acres.

**RECOMMENDATION**

It is recommended that the Board authorize the Executive Director to execute a six-month ENA with AMB/CCG for the purpose of negotiating the final forms of an Option Agreement and a Master Lease Agreement for a portion of the OAB and other lands that comprise approximately 168 acres.

Port of Oakland  
Oakland Army Base Request for Qualifications  
Proposed Tentative Timetable<sup>1</sup> of Next Steps

July 2009

May 8, 2009	Request for Qualifications (RfQ) Issued
June 12, 2009	Responses to RfQ Due to Port
June 30, 2009	Review Panel Interviews of RfQ Responders
July 16, 2009	Presentation of RfQ Panel Selection of Winning Proposer to Maritime Committee for Consideration of Authorizing an Exclusive Negotiating Agreement (ENA)
July 21, 2009	Presentation of Winning Proposer to Board of Port Commissioners for Consideration of Authorizing an ENA
August 2009	Port Execution of (ENA) with Winning Proposer
February 2010	Potential Presentation of Option Agreement to Maritime Committee and Board of Port Commissioners for Consideration
March/April 2013	Potential Presentation of Master Lease Agreement to Maritime Committee and Board of Port Commissioners for Consideration
April 2013	Commencement of Master Lease Agreement Term

<sup>1</sup> The timetable listed above is tentative and assumes successful completion of numerous sub-tasks in order to adhere to these timeframes. In addition, it is possible that some of the timeframes referenced above could be accelerated due to multiple factors.

# ITEM E3

## DRAFT AGENDA REPORT

**TITLE:** Authorization to Enter into a Right of Entry Agreement with Metropolitan Transportation Commission/Bay Area Toll Authority

**AMOUNT:** \$0

**PARTIES INVOLVED:**

Corporate Name/Principal	Location
Metropolitan Transportation Commission/Bay Area Toll Authority	Oakland, CA
Port of Oakland	Oakland, CA

**TYPE OF ACTION:** Resolution

**SUBMITTED BY:** James Kwon, Maritime Director

**COMMITTEE ASSIGNED:** Maritime Committee

**SCHEDULED FOR COMMITTEE:** July 16, 2009

**APPROVED BY:** Omar Benjamin, Executive Director

### FACTUAL BACKGROUND

The San Francisco-Oakland Bay Bridge Open Road Tolling Project is in the process of preparing to install additional electronic toll collection (ETC) equipment at the San Francisco-Oakland Bay Bridge (SFOBB) main toll plaza on westbound Interstate 80 to provide the Bay Area Toll Authority (BATA) the flexibility to monitor, detect and collect tolls from vehicles in all lanes passing through the main toll plaza. The existing equipment would be integrated with the ETC equipment. The ETC equipment would replace the mini toll plaza, just west of the main toll plaza, allowing the mini toll plaza to be removed permanently.

In order to transport and install this additional equipment, BATA needs to utilize the Port's Radio Beach access road located at the north side of the Bay Bridge. The use of the Port's property to transport equipment for the project requires a Port Right of Way Agreement. The project improvements would be constructed within existing right of way for the State. Construction is scheduled to begin in August, 2009, is scheduled to take approximately six to nine months to complete, and is funded through BATA's Measure 1 Toll Bridge Rehabilitation Funds.

**ANALYSIS**

The toll plaza project proposes to consolidate the location of the overhead ETC equipment (existing and new) so that it is centralized at the main toll plaza where maintenance of the equipment can be optimized. Installation of an overhead gantry structure supporting the equipment and capable of spanning the three right most lanes would allow traffic in these lanes to pass through the tolling zone at or near freeway speeds similar to other bridge toll plazas in the Bay Area. Through granting a right of entry, the Port would be assisting BATA to add capacity at the SFOBB toll plaza facility and assist in their ability to monitor and detect traffic in all lanes passing through the toll plaza.

The access road is only used when maintenance on the existing radio towers is needed. BATA consultants will place appropriate signage to notify any vehicles coming in to the area to prepare to stop. They have agreed to stage their vehicles in a manner that will allow vehicles to pass and a flag man will always be on site during the project to assist with traffic if needed. The right of entry agreement will impose load limits to minimize the risk of damage to the roadway caused by excessive loads being placed on it.

Port staff's authority to grant rights of entry without Board approval is limited to rights of entry that last no longer than 45 days. Since the proposed right of entry is for a period of six to nine months, it must be approved by the Board.

**BUDGET & FINANCIAL IMPACT**

There is no financial impact.

**STAFFING IMPACT**

There are no staffing impacts.

**SUSTAINABILITY**

This agreement enables the Bay Area Toll Authority to complete its project to centralize the electronic toll collection equipment at the main toll plaza where maintenance of the equipment can be optimized and capacity at the toll plaza facility can be maximized.

**ENVIRONMENTAL**

The subject action is authorization to enter into a Right of Entry agreement with Metropolitan Transportation Commission/Bay Area Toll Authority to utilize the Port's Radio Beach Access Road parcel for the term of their San Francisco-Oakland Bay Bridge Open Road Tolling Project. The proposed approval of a Right of Entry agreement is exempt from the California Environmental Quality Act (CEQA), pursuant to CEQA Guidelines Section 15304 (e), which exempts minor temporary use of land having negligible or no permanent effects on the environment. BATA's use of the Port's Radio Beach Access Road parcel for the term of their San Francisco-Oakland Bay Bridge Open Road Tolling Project would constitute a temporary use of Port property with negligible or no permanent effects on the

environment and therefore fits within this class of exemptions. No additional environmental review is required for the Board to take the action recommended in this Agenda Report.

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

The matters contained in the 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 Rights of Entry and this work is not being performed by the Port.

**GENERAL PLAN**

The proposed action does not include any alteration of property. The provisions of the General Plan do not apply.

**LIVING WAGE**

The proposed action does not fall within the provision of the Port's living wage ordinance (Port Ordinance # 3666) and living wage requirements set forth in section 728 of the Charter of the City of Oakland.

**OPTIONS**

1. Approve the terms and conditions of the Right of Entry agreement with Metropolitan Transportation Commission/Bay Area Toll Authority as described above and authorize its execution by the Executive Director;
2. Reject the terms and conditions of a Right of Entry agreement with Metropolitan Transportation Commission/Bay Area Toll Authority; or
3. Direct Staff to renegotiate the terms and conditions as described above of the Right of Entry agreement with Metropolitan Transportation Commission/Bay Area Toll Authority

**RECOMMENDATION**

It is recommended that the Board adopt a resolution to Enter into a Right of Entry agreement with Metropolitan Transportation Commission/Bay Area Toll Authority to utilize the Port's Radio Beach Access Road parcel for the term of their San Francisco-Oakland Bay Bridge Open Road Tolling Project