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# AGENDA REPORT

APR 17 4:00 PM '12

**TO: DEANNA J. SANTANA  
CITY ADMINISTRATOR**

**FROM: Fred Blackwell**

**SUBJECT: Oakland Army Base  
TCIF and CSA Amendments**

**DATE: April 6, 2012**

City Administrator Approval		Date	4/16/12
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**COUNCIL DISTRICT: 3**

## RECOMMENDATION

Staff recommends that the City Council adopt Resolutions authorizing the City Administrator to execute

- (1) An Amendment to the California Transportation Commission (CTC) Trade Corridor Improvement Fund (TCIF) Baseline Agreement Between the Port of Oakland and CTC Regarding the Oakland Army Base Project, to Add the City of Oakland As a Party and As a Grant Recipient, to Combine the Two TCIF Grant Allocations into One \$242.1 Million Allocation, to Eliminate TCIF Funding for the 7<sup>th</sup> Street Project, to Expand the Scope and Areas of the Former Oakland Army Base Where TCIF Funds May Be Used, to Establish a New Performance Schedule; to Identify Funding Sources to Match the TCIF Grant, and To Commit an Additional \$22.5 Million in City Funds to Match the TCIF Grant; and
- (2) An Amendment to the Cost Sharing Agreement Between the City of Oakland and the Port of Oakland Pertaining to Infrastructure Improvements at the Former Oakland Army Base, to Reflect the Above Amendment to the TCIF Baseline Agreement, to Establish Respective Roles and Responsibilities Between the Port and City as to Grant Funding; to Identify the Funding Sources to Match the TCIF Grant; and To Commit an Additional \$22.5 Million in City Funds to Match the TCIF Grant.

## EXECUTIVE SUMMARY

The CTC has directed the Port of Oakland to request an Amendment to the Baseline Agreements for its two Oakland Army Base TCIF allocations, one for \$110 million for the 7<sup>th</sup> Street project and one for \$132.1 million for the Outer Harbor Intermodal Terminal (OHIT), which together

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total \$242.1 million. The nature of the TCIF Amendment is to: combine the two TCIF allocations into one \$242.1 million OHIT allocation, eliminating the TCIF funding for the 7<sup>th</sup> Street project; to add the City as a grant recipient; to expand the scope and areas where the TCIF funds can be extended; to establish a new performance schedule; and to identify the sources to match the TCIF funds. The purpose of the CSA Amendment (Included as *Attachment A*) is to reflect the TCIF Baseline Agreement Amendment and to establish the respective roles and responsibilities between the Port and City, and identify the sources to match the TCIF Grant. In addition to the terms outlined in *Attachment A* the Port and City are continuing to negotiate certain additional issues that may or may not be included in the final Cost Sharing Agreement Amendment. These additional items are included as *Attachment B*.

The new arrangement, if approved by the CTC, would be beneficial to the City in that the majority of the TCIF funds would be expended on the City's portion of the OAB. The proposed TCIF Baseline Agreement Amendment was submitted on March 30th. The CTC wants both the Port Board and the City Council to approve resolutions endorsing the proposed Amendment by early May. The CTC wants to see the new commitments to the TCIF grant reflected in an Amended Cost Sharing Agreement as well, to be executed by the City and Port before June, to facilitate CTC's approval of the TCIF Amendment in June of this year.

## OUTCOME

The CTC is giving the Port and City a last chance to preserve the \$242.1 million TCIF allocation for the Oakland Army Base. The proposed Amendment includes the City as a Project Sponsor/Lead Agency in recognition that (1) the City is taking steps towards development that will result in the development of the City's portion of the OAB, (2) the City is prepared to commit up to \$54.5 million as required match to the TCIF funds, and (3) the City is working with several private development partners, whose private investments totaling \$171.9 million are all trade and logistics oriented and can be used to leverage TCIF funding. In consideration of the fact that nearly all of the funds required to match the TCIF allocation are being generated by the City, under the terms of the Amendment most of the TCIF funds will go towards development of the City's portion of the project. This is made possible because a major component of the TCIF project, the 7<sup>th</sup> Street grade separation, is being eliminated from the TCIF project. It is important to note that that 7th Street project could still be substantially funded through the pending Alameda County Transportation Commission (ACTC) Proposition B3 half cent sales tax measure, should that ballot measure be approved in November 2012.

In conjunction with the TCIF Amendment, it is necessary to subsequently amend the Cost Sharing Agreement (CSA) to reflect the new sources and uses for the OAB project as, outlined in the proposed TCIF Baseline Amendment request. Table 1, below, is excerpted from the CSA Amendment, and reflects the proposed sources and uses of funding. It should be noted that the "City Private Match" of \$171.9 million, provided by private developers, represents 70% of the

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required \$242.1 required matching funds. Both the City and the Port are committing to invest more into the project than is currently called for in the existing CSA.

Tnble 1

	Total Cost	Port	City	City Private Match	TCIF
Remediation	11.4	5.7	5.7	-	-
Port Rail Terminal	79.6	10*	3.8	-	65.8
Backbone Infrastructure	247.2	-	45.0	25.9	176.30
Recycling Facilities	46.6	-	-	46.6	-
City Logistics	99.4	-	-	99.4	-
<b>TOTAL</b>	<b>484.2</b>	<b>15.7</b>	<b>54.5</b>	<b>171.9</b>	<b>242.1</b>

\* Subject to Port Board approval

**BACKGROUND/LEGISLATIVE HISTORY**

In 2008, the Port was given two allocations totaling \$242.1 million in Prop IB Trade Corridor Improvement Funds (TCIF) to \$132.1 million to fund the Oakland Outer Harbor Inter-Modal Terminal (OHIT) and \$110 million to fund the 7<sup>th</sup> Street Grade Separation. The TCIF funds require 1:1 matching funds from private or other public sources. Since that time the Port has not been able to put together the necessary public or private matching funds.

In May of 2011, the Port and City entered into the CSA that committed the City to \$32 million in City funds as match to TCIF, in exchange for the Port requesting Amendments to the TCIF allocations that would permit as much as \$60 million of the TCIF to be used to improve the City's OAB land. The Port was supposed to have accomplished the TCIF Baseline Agreement Amendment no later than 2011, but did not due to ongoing negotiations with the CTC regarding the sources of additional required matching funds.

In early 2012 in meetings with CTC the Port and City agreed that the emphasis of the project would shift from the Port's OAB land to the City's OAB land, because only the City had the potential private partners and investments that could leverage TCIF funds. Also, CTC agreed that the City's portion of the OAB was eligible for TCIF funding because it was all trade and logistics oriented, including the restoration of the West Gateway Marine Terminal, as a break bulk facility. On March 30<sup>th</sup>, the Port submitted a proposed Amendment to its TCIF Baseline Agreement to the CTC to reallocate all of its TCIF allocation from the 7<sup>th</sup> Street project to the OHIT project; to amend the TCIF project scope to include the infrastructure improvements on

the City's portion of the OAB, as well as the Port's rail terminal; and to add the City as an additional Project Sponsor/Lead Agency. The Port and City have been told that the CTC will consider the Port's application in late June, 2012.

The CSA Amendment, as outlined in *Attachment A*, provides for the continued cooperation between the Port and City. It commits the City to \$54,500,000 in City funds to match TCIF funds. \$36,500,000 of the \$54,500,000 City commitment is funding currently in hand and already required to be expended towards the economic development of the OAB. The additional \$18,000,000 required to fully meet the commitment is the amount to be received by the City from the land sales to the recyclers and Caltrans, projects that are under contracts to be sold.

The CSA also has provisions regarding which entity, the City or the Port, will be responsible for designing and constructing the various infrastructure improvements. The City, working through the developer, will design and construct the entire backbone infrastructure, roads, and site/soils improvements, and the Port will design and construct the Port rail terminal.

Because the City's OAB project is a port-oriented, rail-oriented logistics center, the Port's construction of the new rail terminal is crucial to the City's development. The CSA Amendment provides the assurances that the City needs that its developments and in particular the West Gateway Marine Terminal, will have adequate rail access. It provides the City with at least 50% exclusive use of the Port rail terminal for 20 years and rights of access and use for an additional 46 years. This ensures that the City's tenants, all of whom will be relying on rail service, the access they will require.

In addition to the agreed upon terms as outlined in *Attachment A*, the City and Port are also discussing a number of additional deal points which may or may not be included in the final CSA Amendment. These additional items are outlined in *Attachment B* and include six additional provisions: (1) whereby the City could construct the railyard should the Port not perform; (2) Port agreement to participate in a Community Facilities Maintenance District; (3) an exchange of the Port's Billboard revenue for its West Oakland Community Fund obligation; (4) a property exchange of Port and City lands that better serves both parties interests; (5) procedures for an efficient grants of access rights between the Port and City to facilitate each parties construction obligations; and (6) procedures for responsibilities should only one party desire to demolish a portion of a warehouse building owned in part by both parties.

## ANALYSIS

This is the Port's and City's last chance to preserve the TCIF \$242.1 million allocation. Without the TCIF Baseline Agreement Amendment and the companion CSA Amendment, the funds will be reprogrammed to other projects in California.

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The TCIF Amendment and the CSA Amendment are very favorable for the City in that it fully funds the infrastructure requirements of the City's portion of the OAB and provides for the necessary Port rail terminal.

The CTC will be looking to the Port and the City to take additional steps to continue to secure the TCIF funding. The CTC will require the completion of CEQA and the securing of the private financing before its June decision to approve the proposed TCIF Amendment. CEQA is on schedule and the negotiations of the several sales and lease agreements are underway, but the schedule is very tight.

### PUBLIC OUTREACH/INTEREST

The OAB master planning process is at the stage where the City, Port, and developers have begun a series of community presentations. Over the past year, while the master plan was being prepared, there have been numerous public meetings and workshops, primarily discussing and coming to consensus about what job/contracting/environmental community benefits should be incorporated into the construction and operation of the OAB. The concept of the use of the OAB as a port-oriented/rail oriented logistics center has been generally well received.

### COORDINATION

The implementation of the planning of the OAB, is a joint effort involving first and foremost the Port. The coming to terms on the CSA Amendment is a major development in the cooperation between the City and the Port. The City Attorney's Office took part in the CSA Amendment negotiations and the preparation of this report.

### COST SUMMARY/IMPLICATIONS

The table below is excerpted from the CSA Amendment and best illustrates the TCIF funded project's total costs, broken down into the project's major public and private elements and the various public and private sources for each major element.

The current condition of the land, roads, and utilities at the OAB are such that development is feasible only if there a major up-front public investment into clearing the sites, reconstituting the land, and rebuilding all of the existing infrastructure. Similarly, the expansion of the rail and marine terminals requires major public investment.

The City's commitment of \$54.5 million is warranted by the funds it leverages, and is required per the terms of the Economic Development Conveyance Agreement to use all the revenues generated by the OAB to realize its redevelopment.

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The sources of the City's proposed Army Base project match commitment are as follows:

Source of Matching Funds	Amount	Fund Number	Status
Joint Environmental Remediation Fund	\$5,700,000	5674	Approved: Resolution No. 2010-0049
Joint Infrastructure Development Fund	\$16,100,000	5672	Approved: Resolution No.2010-0088
Army Base Leasing Program and Fund Balance	\$9,000,000	5670/5671	Approved: Resolution No. 2010-0088
Army Base Land Sale Proceeds	\$18,000,000	TBD	Pending Sales and Approval
TIGER II Master planning grant	\$1,600,000	2127	
Tidelands Trust Burma Road Fund	\$4,100,000	5671	
Total	\$54,500,000		

### SUSTAINABLE OPPORTUNITIES

**Economic:** The investment into the OAB facilitated by the proposed Amendments will enable the City to recreate a viable "working waterfront," creating several thousand jobs, generating significant new City revenues, and giving rise to an expansion of trade and port activity, benefiting the entire region.

**Environmental:** One of the driving forces behind the entire concept of the OAB is to enable the Port to grow, without impacting the environment. The Port rail terminal, the City marine terminal, and the on-site logistics building combine to promote inter-modal train to ship movements, enabling the OAB to grow, without a commensurate increase in truck traffic and emissions.

**Social Equity:** The OAB is being planned to be built and operated with the interests of the West Oakland community in mind. Job and contracting opportunities will be directed towards local hiring and a modernized "green" inter-modal trade and logistics center will bring those jobs without degrading the local environment.

### CEQA

This report is not a project under CEQA.

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For questions regarding this report, please contact Pat Cashman, Oakland Army Base Project Manager, at 510-238-6281.

Respectfully submitted,



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Fred Blackwell  
Assistant City Administrator

Reviewed by: Gregory Hunter  
Neighborhood Investment Officer  
Office of Neighborhood Investment

Prepared by: Pat Cashman  
Title: Oakland Army Base Project Manager  
Office of Neighborhood Investment

Attachments

**Attachment A:** Cost Sharing Agreement Amendment Term Sheet dated March 30, 2012

Cost Sharing Agreement Amendment

March 30, 2012

## 2012 CSA Term Sheet reflecting TCIF Amendment

This term sheet, dated as of March 30, 2012, summarizes certain basic terms of a proposed Amendment to that certain Cost Sharing Agreement between the City and the Port dated July 27, 2011, which will be formally negotiated and approved by the Port and the City, after the CTC approves the anticipated TCIF Baseline Agreement Amendment, subject to the general conditions stated in Section E below.

- A. Recitals – just an update of those in the current CSA (not a full repeat)
- B. Definitions – same as those used in CSA unless otherwise stated herein.
- C. TCIF Baseline Amendment submittal:
  - 1. The Port will apply to CTC for permission to amend the Port's Baseline Agreements to (i) remove the 7<sup>th</sup> Street Project from TCIF funding, (ii) add the \$110M in TCIF funds from the 7<sup>th</sup> Street Project to OHIT, (iii) revise the OHIT project description to specifically include improvements to Burma Road, a new bulk terminal at Berth 7 and other trade and logistics improvements on the City's side of the OAB, and (iv) add the City as a co-signatory to the amended OHIT Baseline Agreement. The estimated total TCIF funding for the revised OHIT project will be \$242.1 million, and the proposed amendment to the OHIT Baseline Agreement will reflect that the TCIF funds will be matched by a combination of public and private investments, for a total project cost of approximately \$484.2 million. In the event that insufficient matching funds are raised by the parties, the City and the Port agree to work cooperatively to either (a) to the extent permitted by CalTrans, reduce the scope of the revised OHIT project and therefore the total amount of the match required for the amended OHIT Baseline Agreement, or (b) raise the additional funds needed to meet the required TCIF match.
  - 2. The TCIF Baseline Agreement Amendment request will include:
    - a. A revised Project Description for the "OHIT TCIF Project" that includes the following uses (which is further described in the plans and detailed project description attached hereto as Exhibit A):
      - i. New Maritime Street, Burma Road, Wake Avenue (realignment) and a "backbone" utility corridor and other utility infrastructure to serve both the Port and City properties (the "Backbone Infrastructure");
      - ii. Environmental remediation on the Port and City properties necessary to complete the RAP and, in conjunction with the other work, the RMP (respectively, the "Port Environmental Work" and the "City Environmental Work");



- iii. Demolition/de-construction, earthwork, and other site preparation on the Port and City properties as necessary to construct the other project elements (“Site Prep Work”);
- iv. A new rail yard located on the Port property including any utility relocation or protection required to vacate 14<sup>th</sup> Street (the “Port Rail Terminal”);
- v. Trade and logistics facilities located on the City property (the “City Trade & Logistics Facilities”);
- vi. West Gateway Break Bulk Terminal and rail spur located on the City property (the “Berth 7 Terminal”); and
- vii. Recycling facilities located on the City property (the “Recycling Facilities”).

The revised Project Description for the “OHIT TCIF Project” set forth in this paragraph C.2.a is hereafter referred to collectively as the “OHIT Project.”

- b. A description of the environmental benefits of the revised project description;
- c. The Project Delivery Schedule for City Lead Improvements (defined below) , attached hereto as Exhibit B, and Project Delivery Schedule for the Port Rail Terminal, attached hereto as Exhibit C.

- 3. A Financial Plan identifying sources and uses and matching commitments based on the following:

Table 1

	Total Cost	Port	City	City Private Match	TCIF
Remediation	11.4	5.7	5.7	-	-
Port Rail Terminal	79.6	10*	3.8	-	65.8
Backbone Infrastructure	247.2	-	45.0	25.9	176.30
Recycling Facilities	46.6	-	-	46.6	-
City Logistics	99.4	-	-	99.4	-
<b>TOTAL</b>	<b>484.2</b>	<b>15.7</b>	<b>54.5</b>	<b>171.9</b>	<b>242.1</b>

\* Subject to Port Board approval

**D. Other Amendments to the Cost Sharing Agreement:**

- 1. If the Port succeeds in amending the Baseline Agreements as described above, the City agrees to provide the non-Port and the non-TCIF funds set forth in Table 1 above as matching funds for the revised OHIT Project. In exchange, the City and Port agree to allocate and use the TCIF funds in accordance with the uses shown in Table 1.
- 2. ACTC Funds: The Port will seek ACTC funding of approximately \$271 million (“2012 ACTC Funds”) for the development of the 7<sup>th</sup> Street Project and other development activities on the Port’s side of OAB, and, contingent upon the Port succeeding in amending the Baseline Agreements as described above and the TCIF

funds actually being available to fund the OHIT Project, the City shall use good faith and reasonable efforts to support the Port's efforts to obtain such 2012 ACTC Funds. In the event that the 2012 ACTC Funds are issued in phases and ACTC determines that the Port is not ready/eligible for a particular phase, the City may, at its sole cost, apply for and receive funds from such phase for the OHIT Project (or other City projects).

3. **Development Elements of the Port/City OHIT Project:** The development elements to be included in the proposed Port and City portions of the OHIT Project described in Paragraph C.2.a above and the 7<sup>th</sup> Street Project are referred to collectively herein as the "Development Elements" and individually as a "Development Element." However, the 7<sup>th</sup> Street Project shall not be a Development Element that will be funded by TCIF funds.
4. **CEQA/NEPA Review of the OAB Project.** Each of the Development Elements have been incorporated into the 2012 Oakland Army Base Project Description dated March 28, 2012 prepared by LSA Associates, Inc. (the "Project Description"), which is the Project Description agreed upon between the City and the Port pursuant to Section 5.02 of the initial Cost Sharing Agreement. Such Project Description shall be used to complete the CEQA review of the OHIT Project as contemplated by Section 5.02 of the initial Cost Sharing Agreement.
5. **Master Infrastructure Development Planning.** Each of the Development Elements have also been incorporated into the Oakland Army Base Master Plan Design Set dated April 2, 2012 prepared by Architectural Dimensions Master Design Team (the "Master Plan") which is the master infrastructure plan that the parties agreed upon in concept pursuant to Section 5.03 of the initial Cost Sharing Agreement subject to comments previously provided by the Port being adequately addressed. Notwithstanding the foregoing to the contrary, each party reserves the right to provide comments regarding proposed revisions to the Master Plan (both changes and supplemental comments) and the parties shall negotiate in good faith regarding the same. If the agreed upon changes to the Master Plan result in corresponding changes to the project documents/information (baseline budgets, TCIF funds, matching funds, plans, etc.) the parties shall cooperate to make applicable changes.
6. **Detailed Designs.** The detailed designs contemplated by Section 5.04 of the initial Cost Sharing Agreement ("Construction Drawings") shall be developed as follows:
  - a. **Port Lead Improvements.** The Port shall be responsible for developing the Construction Drawings for the Port Rail Terminal, Port Environmental Work and related Site Prep Work on the Port property (the "Port Lead Improvements"). Subject to the provisions of the agreed upon design review process (see below) and force majeure delay, the Port shall develop the Construction Drawings for the Port Lead Improvements pursuant to the Project Delivery Schedule set forth in Exhibit C. Further, only to the extent 2012 ACTC Funds are available, the Port shall prepare Construction Drawings for the 7<sup>th</sup> Street Project pursuant to an agreed upon schedule. The City shall transfer the work product related to the design of the Port Lead

Improvements and the 7<sup>th</sup> Street Project that has been completed to date to the Port and the Port shall provide the City, CCIG and all design consultants with appropriate releases of claims associated with any work product incorporated by the Port into its Construction Drawings (defined below).

- b. City Lead Improvements. The City shall be responsible for completing the detailed designs for the Backbone Infrastructure, City Environmental Work, City Trade & Logistics Facilities, Berth 7 Terminal, Recycling Facilities and related Site Prep Work (collectively, the "City Lead Improvements"). Subject to the provisions of the agreed upon design review process (see below) and force majeure delay, the City shall develop the detailed plans for the City Lead Improvements pursuant to the Site Delivery Schedule set forth in Exhibit B.
- c. Design Coordination/Process. The amended Cost Sharing Agreement will include a design coordination process which shall be adhered to by each party and their consultants and contractors in designing Backbone Infrastructure, Port Rail Terminal, the 7<sup>th</sup> Street Project (only if 2012 ACTC Funds are available) and related Site Prep Work (each, a "Common Development Element"). No phase of any Common Development Element shall be commenced unless and until each party has approved in writing (or been deemed to have been approved pursuant to a mutually agreed upon process) the final construction drawings for such Common Development Element. Neither party shall unreasonably withhold, condition or delay its approval of a design that is consistent with the applicable portion of the Project Description and related CEQA Addendum and Master Plan. The design process shall include requirements for detailed support/explanation of any disapproval and that submittals shall be deemed approved if not disapproved within a specified time period.

7. Right of Way and Permits. Each party shall be responsible for obtaining the right of way and permits necessary to deliver the improvements for which they are responsible for delivering.

To the extent that the construction of Backbone Infrastructure requires right of way or easements (construction, utility and access) over a portion of a parties' property, the owner of such property shall provide the same upon written request and without requiring consideration therefor. Notwithstanding the foregoing, the parties shall develop standard indemnity and insurance provisions with request to construction easements, and the parties may impose reasonable conditions on the uses of such rights of way or easements. To the extent the construction of other Development Elements require rights of way or easements over a portion of a party's property, the owner of such property shall consider and meet and confer with the party who needs such right of way or easement to negotiate in good faith the terms and conditions for such right of way or easement.

To the extent feasible, the parties shall coordinate and cooperate in the other parties' efforts to obtain the required permits.

8. Lead Entity for Development and Delivery of Development Elements: The Port shall be responsible for commencing and completing the construction of the Port Lead Improvements pursuant to the Project Delivery Schedule set forth in Exhibit C. Further, subject to the availability of the 2012 ACTC Funds, the Port shall be responsible for commencing and completing the construction of the 7<sup>th</sup> Street project pursuant to an agreed upon schedule. The City shall be responsible for commencing and completing the construction of the City Lead Improvements pursuant to the Project Delivery Schedule set forth in Exhibit B.

The City and the Port shall hereby agree that the baseline budget for each Development Element as shown in the total cost column of Table 1. Such baseline budget includes an agreed-upon percentage of total contract costs allocated for contingency approvals. The party that takes the lead in the development and delivery of each such Development Element shall be solely responsible (as between the City and the Port) for any construction costs that exceed such baseline budget. Notwithstanding the foregoing to the contrary, each party shall be responsible for costs associated with maintaining temporary utilities to their own property. If any party completes the development of any Development Element for less than the amount agreed upon as the baseline budget for that Development Element, then the party who achieved such cost savings may apply such cost savings to other Development Elements on its portion of the OAB.

The City shall be solely responsible (as between the City and the Port) for accounting for and compliance with all TCIF requirements for the City Lead Improvements. The Port shall be solely responsible (as between the City and the Port) for accounting for and compliance with all TCIF requirements for the Port Rail Terminal.

Each lead party shall apply their own procurement rules, policies and “community benefits” to the improvements that they are charged with delivering under the Cost Sharing Agreement, regardless of where the improvements are located. However, the parties shall reasonably cooperate and agree upon insurance requirements related to the development of any Common Development Element, particularly as it relates to the release or presence of any hazardous materials. The non-lead party may require reports regarding contracting that are reasonably required to satisfy such parties reporting requirements.

The parties shall negotiate in good faith regarding reasonable, mutual assurances related to the timely delivery of the Common Development Elements and the commencement of operations at the Port Rail Terminal.

The parties shall negotiate in good faith regarding procedures to deal with traffic control, temporary utilities, temporary parking, construction storage and temporary tenant relocation.

9. City commitment to Design/Build construction methodology: In order to meet the TCIF schedule and to be consistent with its RFQ, RFP, ENA, and LDDA negotiations, it is the intent that (a) the City will work with the City’s developer of the

City's side of OAB on the construction of the City Lead Improvements using the proposed design/build basis and (b) the Port will implement its own design/build process for the construction of the Port Lead Improvements.

10. The City and the Port shall agree upon a schedule for the rail yard to be operational (operator and equipment in place and services available), which schedule shall be coordinated with the completion and operation of agreed upon phases of the City Lead Improvements.
11. Port Commitment to permit City access to Rail Terminal. In recognition of the City's needs for rail access to the Port Rail Terminal, the Port and City will negotiate in good faith an agreement for the Port Rail Terminal to serve the City's rail needs within the following parameters: (i) the Port shall use commercially reasonable efforts to select the operator of the Port Rail Terminal no later than a date to be agreed upon between the City and the Port; (ii) upon completion of the initial Phase of the Port Rail Terminal, the Port shall require its operator of the Port Rail Terminal to provide rail services to the City's rail needs for a period of 20 years as follows: (a) priority rail service to City's rail needs for up to 50% of the train capacity at the Support Yard (the 8 unit train tracks) portion of the Port Rail Terminal, provided that if the City's rail needs are not utilizing 50% of the train capacity at the Support Yard portion of the Port Rail Terminal, the Port shall have the right to use such train capacity for Port rail needs, and (b) priority rail service to Port's rail needs for up to 50% of the train capacity at the Support Yard portion of the Port Rail Terminal, provided that if the Port's rail needs, the City shall have the right to use such train capacity for City rail needs; and (c) the new Knight Rail Yard (manifest train tracks) shall be operated on a first-come/first-served basis; (iii) the City and its tenants shall be required to pay the standard operator charges and Port rail tariffs as such charges and tariffs may be adjusted from time to time by the Port Board (which charges shall be transparent, market rate (consistent with other West coast rail facilities) and non-discriminatory (as between City/Port tenants/customers); and (iv) should the demand for rail service from both the City's and the Port's rail needs reach or exceed [80]% of the rail terminal's total capacity to serve all the interested customers for a continuous period of 12 consecutive months within 10 years after the completion of the Port Rail Terminal, the Port and the City shall negotiate in good faith for the expansion of the Port Rail Terminal. Additionally, upon the expiration of the term of the City's priority use, the City shall have non-exclusive, non-priority access to the Support Yard upon market rate terms.

In the event the Port operator is unable to deliver the rail services as provided in the preceding paragraph, the City shall have the right to provide such services for its own uses of the Port Rail Terminal using its own operator. In such an event, the City and the Port shall negotiate in good faith the terms and conditions for the City's operator to enter and use the Port Rail Terminal at market rates. Additionally, the parties agree that the Port will not prohibit Oakland Global Rail Enterprise from responding to the Port's operator RFP.

12. The City and Port Agree to Cooperate in Good Faith to Seek Other Sources of Financing for the Development Elements if needed.

### 13. Performance Schedule:

- July 31, 2012 deadline for CEQA and LDDA agreements with City developers
- November 2012 ACTC transportation sales tax vote
- June 2013 Notice to Proceed
- Dec 2013 construction start, absolute TCIF deadline.

### E. General

While this term sheet summarizes certain essential terms of a proposed amendment to the Cost Sharing Agreement, it does not set forth all of the material terms and conditions of that document. This term sheet is not intended to be, and will not become, contractually binding on the City or the Port, and no legal obligation will exist unless and until the parties have negotiated, executed and delivered a mutually acceptable amendment to the Cost Sharing Agreement based upon this term sheet. The City and the Port retain the absolute discretion before any final action on the proposed amendment to the Cost Sharing Agreement by the City Council and the Board of Port Commissioners, as applicable, to make such modifications to the Cost Sharing Agreement, the proposed amended OHIT Project, and this term sheet.

**Exhibit A**

**TCIF Project Description**

## Project Description

The Outer Harbor Intermodal Terminals (OHIT) project is of national significance, seeking to transform the former Oakland Army Base into a world-class intermodal trade and logistics center. The Port of Oakland is the only international container trade gateway for the Northern California MegaRegion; it is the leading U.S. export gateway on the West Coast and is the fifth ranked US seaport by containerized cargo movements.

The Port of Oakland is a strategic trade gateway that has seen over a billion dollars in investment over the past decade to support the growing demand for global trade through the nation's limited trade gateways.

This project will be another critical development initiative to open US businesses to international markets through an improved Oakland seaport. The Trade Corridors Improvement Fund (TCIF) will contribute towards the \$484.2 million first phase of the Oakland Army Base redevelopment. This represents the build-out of a City owned 165 acre development area and the establishment of a new rail terminal on 40 acres of the Port property. Subsequent phases of the redevelopment will include further expansion of the rail terminal, an additional 1 million square feet of trade and logistics facilities on the Port's land, and the 7th Street grade separation project connecting road, rail and marine networks efficiently within Port. The complete redevelopment, including all phases is expected to take ten years. The project represents a billion dollar investment in goods movement for California.

### I. Oakland Army Base

The former Oakland Army Base (OARB), an approximately 430-acre facility located on the West Oakland waterfront, was first commissioned in 1941 as a Port and trans-shipment facility. During World War II, it served as a major cargo Port and warehousing facility. Up until 1995, the Base was active with warehouse uses and approximately 2,040 employees. In 1995, the Base Realignment and Closure Commission recommended closure and realignment/disposal of the Oakland Army Base. The Base was officially closed for military operations in September 1999.

The closure resulted in the loss of more than 7,000 jobs and the dismantling of a national maritime and military asset. Adjacent to the Port of Oakland seaport, this 330-acre former base is at a nexus of maritime, rail and highway transportation. After a decade of strategic planning for the redevelopment of the base and the surrounding lands, the Outer Harbor Intermodal Terminals development is the implementation of a bold vision to revitalize Oakland's working waterfront.

In August 2006, approximately 170 acres of the former Army Base were conveyed to the City of Oakland, and another 200 acres were transferred to the Port. The City of Oakland has assembled a number of private land developers and companies interested in partnering with it to develop the infrastructure necessary for the base redevelopment.

### II. Location

The Oakland Army Base site is located along the eastern shoreline of San Francisco Bay in the City of Oakland. The project area is located approximately two miles west of the Oakland central business district. It is located adjacent to several regional transportation links, as well as to the Bay.



### III. Master Plan

For the past eight months, the City of Oakland its development partner, California Capital and Investment Group, and the Port of Oakland have worked to develop a master plan for the entire Oakland Army Base described above. The master plan was finalized in February 2012 and will guide the development of the multiple elements of the site throughout the future.

### IV. Project Elements

The key components of the OHIT project described in this application are:

- Construction of a new rail terminal
- Rehabilitation of an existing wharf and surrounding lands, creating a new bulk cargo marine terminal
- Construction of new trade and logistics warehousing and port-related facilities
- Relocation and consolidation of Oakland recycling services into a central location with improved access to the Port
- Roadway and utility improvements for the development area, focused along a backbone along Maritime Street and Burma Road
- On-going environmental remediation
- Site preparation—including import, fill, surcharging, and grading—within the City areas designated for the trade and logistics and recycling facilities

The TCIF will be used for the rail, backbone infrastructure, and site preparation required for the container/bulk transfer facilities. Details on the major components are provided in Section VI, Segmentation.

### V. Construction Activities

The project is divided into multiple development sequences, ranging from demolition to earthwork to utility and road work to building development. The development generally consists of two types of work. The first is public infrastructure improvements, consisting of road, utility, wharf, rail and site preparation work. Following these improvements, “vertical,” or private investments in new buildings and sites will be development for specific users and customers to leverage the strategic public infrastructure improvements.

### VI. Project Segmentation

To distinguish responsibilities between the two implementing agencies, the Project has been divided into five separate segments with corresponding funding plans, permitting, and delivery methods.

	Total Cost	Port	City	City Private Match	TCIF
Remediation	11.4	5.7	5.7	-	-
Port Rail Terminal	79.6	10	3.8	-	65.8

City Site Prep and Backbone Infrastructure	247.2	-	45.0	25.9	176.3
Recycling Facilities	46.6	-	-	46.6	-
City Trade & Logistics Facilities	99.4	-	-	99.4	-
<b>TOTAL (costs in millions)</b>	<b>484.2</b>	<b>15.7</b>	<b>54.5</b>	<b>171.9</b>	<b>242.1</b>

### Segment 1: Environmental Remediation

Environmental Remediation. Sites of hazardous material still exist throughout the project area. Prior to the transfer of the Base to the Port and the City, these sites were identified and protocols were established for their remediation and on-going monitoring. This combined effort by the City and Port is approximately 80% complete and will be ongoing with this project. This project may need for additional remediation and such costs are included in the project estimate.

Please refer to drawing X-126, attached.

### Segment 2: Port Rail Terminal

The former Knight Yard on the Oakland Army Base would be replaced with a rail terminal designed to support increased cargo transfer between ships and trains. The new rail terminal will include over 65,000 feet of new railroad tracks, designed to accommodate intermodal, manifest and unit bulk trains. The manifest tracks will be used as a staging yard to accommodate the existing and new warehouses within the site. The manifest yard has a 200 railcar capacity, supporting up to 20,000 loaded railcars per year. The unit train support yard can accommodate 4 unit trains at any one time with its 8 - 4,000 ft tracks. This yard will be used to stage primarily bulk and intermodal trains up to 8,000 feet in length each. The yard can accommodate as many as 28 trains per week. The support yard will be used for the bulk cargo marine terminal, to support the future phase 2 intermodal yard planned adjacent to the support yard, and bulk cargo transload operations within the Port. The rail terminal includes 2 lead tracks for the Port's existing Joint Intermodal Terminal as well. Access improvements to Union Pacific Railroad's adjacent line are planned to minimize impacts on the mainline. The tracks will all be designed to current UP and BNSF industry standards, and will be capable of accommodating all types of rail cargo.

Please refer to drawing X-127, attached, for a description of the rail improvements.

### Segment 3: City Site Prep Work and Backbone Infrastructure

Demolition of Existing Buildings. Old, outdated, non-code conforming buildings still exist throughout the site, including several large warehouses created for the Army in the early days of World War II. These buildings were built before the container industry developed, and are not nearly as effective as modern facilities, however they are still occupied today by opportunistic freight companies. Unfortunately the buildings are deteriorating, settling (due to underlying bay mud), not seismically safe nor designed to meet today's container-based port operations. Elements of the buildings, particularly the massive wood materials, are of value in today's market and will be salvaged for reuse, a sustainable goal of the project. The demolition effort will eliminate underutilized buildings including their hazardous materials.

Earthwork and Soil Stabilization. The project site is currently low in elevation due to years of settlement and an original design elevation that did not contemplate today's drainage and sea rise requirements. For this reason, a large amount of earth import is required to bring the project site up to a new elevation that complies with current regulations and anticipated sea rise. In addition to the import needed to raise the site, more import is needed on a temporary basis to "load" the site (weigh it down) to achieve condensing of the underlying bay mud before new buildings are constructed. This process, called surcharging, will "pre-settle" the site to thwart long term settlement that damages buildings and site improvements such as utilities. Earth imports will be made primarily by barge taking advantage of marine transportation that is cheaper and less impactful on the environment due to elimination of traditional truck transportation. Before surcharging of the site, there will be a deep dynamic compaction process to cure the underlying sand layer that is susceptible to liquefaction during a seismic event. The compaction process will result in settlement of the existing dirt by around one foot.

Replacement of Utilities. The existing utility systems across the project are failing in various degrees but all failing nonetheless. There is documentation of water leakage throughout the project site area to the extent that local repairs cannot be made. The storm sewer system is also leaking underground and is undersized to carry storm water at today's design levels. Power infrastructure is old, not able to sustain more demands on the system and in need of replacement simply due to age. Telecommunication systems are minimal simply due to the vast increase in requirements in this arena in the last 20 years that the 1940s vintage improvements did not include. The project includes construction of new utility systems to sustain full build-out of the project. New improvements will ensure supply of services to new users with efficiency that yields less energy usage compared to the original development and even buildings developed in the last 10 years. Reconstruction of utilities will eliminate wasteful leakages that add to contamination of bay waters through water table migration.

Grading and Drainage. After the surcharging program, the sites will be rough-graded to a super pad elevation to allow for construction of vertical improvements. Each "vertical" building project will be responsible for its respective share of surrounding site improvements to support the building and such improvements will follow design standards being developed for the project now. The grading and drainage plan for the project shows grades and drainage patterns to the extent that all drainage will meet current state and local retention and filtration requirements for protection of downstream sources, namely San Francisco Bay. The storm system will be replaced for the most part but tie into existing Bay outfalls. The new drainage plan shows that we have provided more than 4% filtration areas to receive runoff. The distribution of landscape areas to serve as filtration zones is very good so there will be adequate natural filtration.

Circulation. Along all the arterials sidewalks and bike lanes are provided. The bike lanes extend the existing system so that there is full connectivity between the east/west path from Emeryville to the Bay Bridge into the project site along Burma Road and into Maritime where the bike path heads south all the way to 7th street where it parts east and west; east going along 7th street, under Interstate-880 to Wood Street and west going to Middle Harbor Park.

Public Roadway Improvements. Maritime Street and Burma Road, the two primary existing roadways within the project, are sinking and crumbling, therefore in need of total replacement. Replacing and realigning these roads will allow for better traffic flow Within the Port, enable the replacement of the utility systems, and provide access to the future gateway park at the base of

the Bay Bridge. New roadway design with reduced intersections will increase traffic efficiency, reduce accidents and reduce emissions. The project will also construct new bike lanes to connect to other projects thus enabling more thoroughfare through the site to existing and planned parks.

Landscaping. While not normally seen in intermodal facilities we are planning new landscaping areas to enhance views, reduce heat gain and to facilitate drainage filtration. Reduction of impervious areas is possible through good planning practices particularly when facilities share truck parking areas to maximize usage and eliminate unnecessary pavement. It is our plan to install a new reclaim water system to irrigate landscaping thus saving more potable water from the nearby facility that feeds all of West Oakland.

Wharf Improvements. Existing wharves have been studied to determine the extent of repairs and costs for reuse as a working waterfront. The wharves have deteriorated over the past 60 years but have adequate structure to allow repairs to bring them into a useful mode for bulk shipping activities. Repair through public and private investment will facilitate new businesses along the wharves that enhance rail activities and local hiring. No new wharf structures are part of this project.

Please refer to the activities described in drawing X-128, attached.

#### **Segment 4: Recycling Facilities**

Two recycling operators located in a mixed used neighborhood of West Oakland would be relocated to the industrial area adjacent to the Port. Both recyclers utilize the Port terminals for the export of metals, paper and other collected materials.

Please refer to drawing X-129, attached, for a description of the recycling facilities.

#### **Segment 5: City Trade & Logistics Facilities**

Bulk Cargo Marine Terminal. On the City's West Gateway site, berth 7 would be converted to a modern bulk cargo marine terminal for movement of commodities such as iron ore, corn and other products brought in to the terminal by rail. 80,000 DWT Panamax vessels would be filled with cargo brought in by rail, unloaded on site and moved by conveyor into the ship's cargo holds. The terminal would also accommodate project cargo such as windmills, steel coils and oversized goods. Rail tracks from the rail terminal to this marine terminal would be built, as would improvements to the wharf structure, construction of new purpose-built cargo handling facilities such as storage locations, conveyors, and rail car unloading equipment.

Trade and Logistics Facilities. Approximately one million square feet of port-oriented trade and logistics facilities would be constructed on the Central and East Gateway sites. Work would include site preparation, including raising the site and surcharging. Rail service and truck parking would be provided for the warehouses as appropriate. The facilities would be used predominantly by importers and exporters for goods movement associated with the Port of Oakland transportation hub.

Please refer to drawing X-130, attached, for a description of the trade and logistics facilities.

**Exhibit B**

**Delivery Schedule for City Areas**

CCIG Oakland Global  
 March 28, 2012  
 Oakland Army Base

Delivery Schedule for City Areas

Area	Activity	Est. Start	Est. Completion
Preconstruction Activities	Soils Import	July 2012	June 2013
	Remediation	On-Going	August 2013
Roadways	Maritime Street	June 2013	October 2015
	Burma Road	June 2016	December 2018
East Gateway	Site Preparation	July 2013	July 2017
	Vertical Construction	June 2016	July 2017
	Occupation	January 2017	
North Gateway	Site Preparation	May 2014	May 2018
	Vertical Construction	September 2016	July 2018
	Occupation	April 2018	
Central Gateway	Site Preparation	September 2014	December 2019
	Vertical Construction	November 2017	December 2019
	Occupation	May 2018	
West Gateway (Working Waterfront Variant)	Site Preparation	January 2015	July 2018
	Vertical Construction	July 2012	February 2013
	Occupation	March 2013	
West Gateway (Office/R&D Variant)	Site Preparation	January 2015	July 2018
	Vertical Construction	December 2017	July 2018
	Occupation	July 2018	

**Exhibit C**

**Delivery Schedule for Port Rail Terminal**

Outer Harbor Intermodal Terminal  
Design-Build Project Delivery Schedule

ID	Task Name	Duration	Start	Finish	2012				2013				2014				2015					
					Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4	Qtr 1	Qtr 2	Qtr 3	Qtr 4		
1	Board Approves Oesign/Building Concept	1 day	Thu 3/1/12	Thu 3/1/12																		
2																						
3	Schematic Design	89 days	Mon 3/5/12	Fri 6/1/12	█	█																
4	Review Existing OHIT Plan for Gaps to Identify in RFP	12 days	Mon 3/5/12	Fri 3/16/12	█																	
5	Draft RFP for Design Criteria Consultant (DCC)	19 days	Mon 3/5/12	Fri 3/23/12	█																	
6	DCC Proposal and Selection Process	39 days	Mon 3/26/12	Thu 5/3/12	█																	
7	Award and Negotiate DCC Contract	25 days	Fri 5/4/12	Fri 6/1/12			█															
8																						
9	Design Development and RFP	15 days	Mon 6/4/12	Fri 8/17/12			█															
10	DCC Prepares Bridging Documents and 30% Plans	61 days	Mon 8/4/12	Fri 8/3/12			█															
11	DCC Prepares RFP for Design-Build Team	26 days	Mon 7/9/12	Fri 8/3/12			█															
12	Legal Review of Bridging Documents and RFP	15 days	Fri 8/3/12	Fri 8/17/12			█															
13																						
14	Bid/Negotiation	167 days	Mon 8/20/12	Fri 2/22/13				█														
15	RFP Bid Period	61 days	Mon 8/20/12	Fri 10/19/12				█														
16	Evaluate Bids and Select Oesign-Builder	61 days	Mon 10/22/12	Fri 12/21/12				█														
17	Negotiate GMP with Design-Builder	33 days	Mon 12/24/12	Fri 1/25/13				█														
18	Finalize Coniraci with Design-Builder	26 days	Mon 1/28/13	Fri 2/22/13				█														
19																						
20	Design-Builder Prepares Construction Documents	208 days	Mon 2/25/13	Fri 9/20/13					█													
21	Preparation and Review of 60 Percent Plans	89 days	Mon 2/25/13	Fri 5/24/13					█													
22	Site Preparation and Env. Remediation P&S	33 days	Mon 5/27/13	Fri 6/28/13						█												
23	Site Grading P&S	89 days	Mon 5/27/13	Fri 8/23/13						█												
24	Railyard P&S	117 days	Mon 5/27/13	Fri 9/26/13						█												
25																						
26	Agency Coordination	360 days	Mon 8/20/12	Wed 8/14/13						█												
27	Railyard Penning	360 days	Mon 8/20/12	Wed 8/14/13						█												
28	Railyard Uility Permitting	313 days	Mon 8/20/12	Fri 6/28/13						█												
29																						
30	Construction Phase	859 days	Mon 7/1/13	Fri 11/6/15							█											
31	NTP for Site Preparation and Env. Remediation	1 day	Mon 7/1/13	Mon 7/1/13								█										
32	Site Preparation and Environmental Remediation	150 days	Mon 7/1/13	Fri 12/27/13								█										
33	NTP for Site Grading	1 day	Mon 8/26/13	Mon 8/26/13									█									
34	Import Fill and Surcharge	271 days	Mon 8/26/13	Fri 5/23/14									█									
35	Site Grading	89 days	Mon 5/26/14	Fri 8/22/14										█								
36	NTP for Railyard Construction	1 day	Mon 7/21/14	Mon 7/21/14											█							
37	Railyard Construction	292 days	Mon 7/21/14	Fri 5/8/15											█							
38	Project Closeout	180 days	Mon 5/11/15	Fri 11/6/15												█						
39																						
40	OHIT Railyard Operator	208 days	Mon 6/4/12	Fri 12/28/12							█											
41	Outreach to Potential Railyard Operators	58 days	Mon 6/4/12	Tue 7/31/12							█											
42	Draft RFP for OHIT Railyard Operator	33 days	Mon 7/16/12	Fri 8/17/12							█											
43	OHIT Proposal and Selection Process	54 days	Mon 8/20/12	Fri 10/12/12							█											
44	Negotiate Lease with OHIT Railyard Operator	75 days	Mon 10/15/12	Fri 12/28/12							█											

Project: OHIT Design-Build R3  
Date: Wed 3/28/12

Task Split Progress Milestone Summary Project Summary External Tasks External Milestone Deadline



*Attachment B*

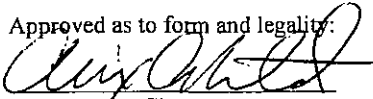
**Possible Additional Terms for the Cost Sharing Agreement Amendment**

1. Stronger assurances from the Port on deadlines for construction and operation of the Rail Terminal; or, a self-cure provision that the City can step in and complete the rail design, construction, and operation.
2. Port agreement that its portion of the OAB would be included in a Community Facilities District formed to maintain the public facilities and utilities in the OAB.
3. Agreement that the Port rent, for a nominal fee, the Port billboard sites to the City, in exchange for the City paying the \$2 million owed by the Port to the West Oakland Community Fund.
4. An agreement and process for the exchange of 2.6 acres of Port land in the North Gateway, which would benefit the needs of the two recycler operations, for 2.6 acres of City land in the East Gateway, that would allow the Port to own and control all of one of the existing warehouses, which is currently owned by both the Port and City.
5. An agreement and process for the City and Port expediting the necessary granting of access rights that each will require of the other, to accomplish their respective obligations in building out the public infrastructure improvements.
6. An agreement about who will pay if one party wants to demo a jointly owned warehouse and the other party wants to keep its portion operational.

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2012 APR 17 PM 4:56

Approved as to form and legality:

  
Deputy City Attorney

## OAKLAND CITY COUNCIL

RESOLUTION NO. \_\_\_\_\_ C.M.S.

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**RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE AN AMENDMENT TO THE CALIFORNIA TRANSPORTATION COMMISSION (CTC) TRADE CORRIDOR IMPROVEMENT FUND (TCIF) BASELINE AGREEMENT BETWEEN THE PORT OF OAKLAND (PORT) AND CTC REGARDING THE OAKLAND ARMY BASE PROJECT, TO ADD THE CITY AS A PARTY AND AS A GRANT RECIPIENT, TO COMBINE THE TWO TCIF GRANT ALLOCATIONS INTO ONE \$242.1 MILLION ALLOCATION, TO CHANGE THE SCOPE AND AREAS OF THE FORMER OAKLAND ARMY BASE WHERE TCIF FUNDS WILL BE USED, AND TO IDENTIFY FUNDING SOURCES TO MATCH THE TCIF GRANT**

**WHEREAS**, the City of Oakland and the Port of Oakland own respective parcels of the former Oakland Army Base; and

**WHEREAS**, the Oakland Army Base Reuse Plan and 2002 Environmental Impact Report document the need to install all new public utilities and streets to serve new development of the former Oakland Army Base; and

**WHEREAS**, the Port of Oakland (Port), the California Department of Transportation (Caltrans), and the California Transportation Commission (CTC) entered into the Trade Corridor Improvement Fund (TCIF) Baseline Agreement as of December 10, 2009; and

**WHEREAS**, the TCIF Baseline Agreement provides for one \$110 million grant for the 7<sup>th</sup> Street Grade Separation Project, and one \$132.1 million grant for the Outer Harbor Terminal (OHIT) project, both of which will be matched with private and public dollars; and

**WHEREAS**, the TCIF Baseline Agreement documents the project cost, schedule, scope and benefits of the 7<sup>th</sup> Street Grade Separation Project and the OHIT project; and

**WHEREAS**, the parties to the TCIF Baseline Agreement wish to: (1) add the City of Oakland as a party and as a TCIF grant recipient; (2) eliminate the 7<sup>th</sup> Street Grade Separation Project from the scope of the Agreement; (3) combine the two TCIF grant allocations in the Agreement into one \$242.1 million allocation; (4) expand the scope and areas where the TCIF funds can be extended; (5) establish a new performance schedule; and (6) identify the funding sources to match the TCIF grant funds; now, therefore be it

**RESOLVED:** That the City Administrator is authorized to negotiate and execute an amendment to the Trade Corridor Improvement Fund (TCIF) Baseline Agreement dated December 10, 2009 in order to: (1) add the City of Oakland as a party and as a TCIF grant recipient; (2) eliminate the 7<sup>th</sup> Street Grade Separation Project from the scope of the Agreement; (3) combine the two TCIF grant allocations in the Agreement into one \$242.1 million allocation; (4) expand the scope and areas where the TCIF funds can be extended; (5) establish a new performance schedule; and (6) use the identified funding sources to match the TCIF grant funds; and be it

**FURTHER RESOLVED:** That the City is authorized by way of the amended TCIF Baseline Agreement to accept up to \$176.3 million in Port of Oakland Trades Corridor Improvement Funds over the course of the Agreement for the construction of infrastructure and other site preparation projects within East and Central Gateway Areas; and be it

**FURTHER RESOLVED:** That this action complies with the California Environmental Quality Act (CEQA) for the following reasons, each of which provides a separate and independent basis for CEQA compliance: (1) some activities covered under proposed amendment have already been evaluated by the previously certified 2002 EIR, such as hazardous materials remediation; (2) certain activities covered under the proposed amendment are statutorily exempt from CEQA, such as Planning and Feasibility Studies, including detailed design and engineering efforts, pursuant to CEQA Guidelines section 15262; (3) the proposed amendment includes funding mechanisms that are not subject to CEQA, pursuant to CEQA Guidelines section 15378(b)(4); and (4) this action is exempt from CEQA pursuant CEQA Guidelines section 15061(b)(3), where it can be seen with certainty that there is no possibility that the project may have a significant effect on the environment; and be it

**FURTHER RESOLVED:** That the Environmental Review Officer shall cause to be filed appropriate Notices of Exemption/Determination; and be it

**FURTHER RESOLVED:** That the City Administrator and his or her designee is authorized to take whatever action is necessary with respect to negotiating and executing an amendment to the TCIF Baseline Agreement in support of the development of public improvements on the former Oakland Army Base consistent with this Resolution and its basic purposes.

IN SESSION, OAKLAND, CALIFORNIA, April \_\_\_\_, 2012

PASSED BY THE FOLLOWING VOTE:

AYES - KERNIGHAN, NADEL, DE LA FUENTE, BROOKS, BRUNNER, KAPLAN, SCHAAF AND PRESIDENT REID

NOES -

ABSENT -

ABSTENTION -

ATTEST: \_\_\_\_\_  
LATONDA SIMMONS  
City Clerk of the City of Oakland

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

2012 APR 17 PM 4:56

Approved as to Form and Legality

  
Deputy City Attorney

## OAKLAND CITY COUNCIL

RESOLUTION No. \_\_\_\_\_ C.M.S.

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RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE AN AMENDMENT TO THE COST SHARING AGREEMENT BETWEEN THE OAKLAND REDEVELOPMENT AGENCY (AGENCY) AND THE PORT OF OAKLAND PERTAINING TO INFRASTRUCTURE IMPROVEMENTS AT THE FORMER OAKLAND ARMY BASE, TO REFLECT THE TRANSFER OF THE PROPERTY FROM THE AGENCY TO THE CITY OF OAKLAND, TO ACKNOWLEDGE AN AMENDMENT TO THE TRADE CORRIDOR IMPROVEMENT FUNDS (TCIF) BASELINE AGREEMENT, TO ESTABLISH RESPECTIVE ROLES AND RESPONSIBILITIES BETWEEN THE PORT AND CITY AS TO GRANT FUNDING; TO IDENTIFY THE FUNDING SOURCES TO MATCH THE TCIF GRANT; AND TO COMMIT AN ADDITIONAL \$22.5 MILLION IN CITY FUNDS TO MATCH THE TCIF GRANT.

WHEREAS, the City of Oakland (City) and the Port of Oakland (Port) own respective parcels of the former Oakland Army Base; and

WHEREAS, the assets of the Oakland Redevelopment Agency, including its real property at the former Oakland Army Base, have transferred to the City as of January 31, 2012; and

WHEREAS, the Oakland Army Base Reuse Plan and 2002 Environmental Impact Report document the need to install all new public utilities and streets to serve new development of the former Oakland Army Base; and

WHEREAS, the cost for new rail and street systems, utilities, streets, open space, and safe public access is estimated at \$500 million; and

WHEREAS, the California Transportation Commission (CTC) has awarded the Port an allocation of more than \$242 million in Trade Corridor Improvement Funds (TCIF) to be used for the construction of infrastructure improvements within the East and Central Areas of the former Oakland Army Base; and

WHEREAS, the Port of Oakland (Port), the California Department of Transportation (Caltrans), and CTC entered into the TCIF Baseline Agreement as of December 10, 2009; and

WHEREAS, on or about July 27, 2011, the Port of Oakland, the Redevelopment Agency of the City of Oakland, and the City of Oakland entered into a Cost Sharing Agreement for the

Oakland Army Base (CSA) to support each agency's economic development goals for their respective portions of the former Oakland Army Base; and

**WHEREAS**, the CSA provided for the terms under which the City and/or the Redevelopment Agency would contribute toward the matching funds required for the Port of Oakland's TCIF grant; and

**WHEREAS**, the parties to the TCIF Baseline Agreement intend to amend that agreement to add the City as a grant recipient, to expand the scope and areas where the TCIF funds can be extended, to establish a new performance schedule, and to identify the funding sources to match the TCIF funds; and

**WHEREAS**, the parties to the CSA wish to amend the CSA to reflect the changes to the TCIF Baseline Agreement, to commit an additional \$22.5 million in City funds to match the TCIF grant, and to establish the respective roles and responsibilities between the Port and City, in a manner consistent with the term sheet dated March 30, 2012, attached hereto as Attachment A; and

**WHEREAS**, the City Council wishes to grant the City Administrator further authority to negotiate and execute an amendment that may include those terms on Attachment B; and

**WHEREAS**, the City has identified that the \$22.5 million in funding will come from a combination of \$18 million in scheduled land sales and \$4.5 million in the existing Army base Leasing Program and Fund Balances, Fund Numbers 5670 and 5671; and

**WHEREAS**, the parties to the CSA wish to amend the CSA to acknowledge that the Redevelopment Agency's interests in the former Oakland Army Base have transferred to the City; now, therefore be it

**RESOLVED:** That the City Administrator is authorized to negotiate and execute an amendment to the Cost Sharing Agreement with the Port of Oakland for the development of infrastructure and other improvements on the former Oakland Army Base that will: (1) acknowledge that the Oakland Redevelopment Agency's interests in the former Oakland Army Base have transferred to the City; (2) commit an additional Twenty-Two Million Five Hundred Thousand dollars (\$22,500,000) of City funds to match the Trade Corridor Improvement Fund (TCIF) grant made by the California Transportation Commission; and (3) establish the respective roles and responsibilities between the Port and the City in a manner consistent with the term sheet dated March 30, 2012, attached hereto as Attachment A; and be it

**FURTHER RESOLVED:** That the City is authorized by way of the amended Cost Sharing Agreement and the amended TCIF Baseline Agreement to accept up to \$176.3 million in Trade Corridor Improvement Funds over the course of the agreements for the construction of infrastructure and other site preparation projects within East and Central Gateway Areas; and be it

**FURTHER RESOLVED:** That the City Administrator is authorized to negotiate and execute an amendment to the Cost Sharing Agreement with the Port of Oakland that may include those terms found on Attachment B hereto; and be it

**FURTHER RESOLVED:** That this action complies with the California Environmental Quality Act (CEQA) for the following reasons, each of which provides a separate and

independent basis for CEQA compliance: (1) some activities covered under proposed Cost Sharing Agreement have already been evaluated by the previously certified 2002 EIR, such as hazardous materials remediation; (2) certain activities covered under the proposed Cost Sharing Agreement are statutorily exempt from CEQA, such as Planning and Feasibility Studies, including detailed design and engineering efforts, pursuant to CEQA Guidelines section 15262; (3) the proposed Cost Sharing Agreement includes funding mechanisms that are not subject to CEQA, pursuant to CEQA Guidelines section 15378(b)(4); and (4) this action is exempt from CEQA pursuant CEQA Guidelines section 15061(b)(3), where it can be seen with certainty that there is no possibility that the project may have a significant effect on the environment; and be it

**FURTHER RESOLVED:** That the Environmental Review Officer shall cause to be filed appropriate Notices of Exemption/Determination; and be it

**FURTHER RESOLVED:** That the City Administrator and his or her designee is authorized to take whatever action is necessary with respect to negotiating and executing the amendment contemplated herein in support of the development of public improvements on the former Oakland Army Base consistent with this Resolution and its basic purposes.

IN SESSION, OAKLAND, CALIFORNIA, \_\_\_\_\_, 2012

PASSED BY THE FOLLOWING VOTE:

AYES – BROOKS, BRUNNER, DE LA FUENTE, KAPLAN, KERNIGHAN, NADEL, QUAN, SCHAAF, AND PRESIDENT REID

NOES –

ABSENT –

ABSTENTION –

ATTEST: \_\_\_\_\_  
LATONDA SIMMONS  
City Clerk of the City of Oakland

## Attachment A

Cost Sharing Agreement Amendment

March 30, 2012

### 2012 CSA Term Sheet reflecting TCIF Amendment

This term sheet, dated as of March 30, 2012, summarizes certain basic terms of a proposed Amendment to that certain Cost Sharing Agreement between the City and the Port dated July 27, 2011, which will be formally negotiated and approved by the Port and the City, after the CTC approves the anticipated TCIF Baseline Agreement Amendment, subject to the general conditions stated in Section E below.

- A. Recitals – just an update of those in the current CSA (not a full repeat)
- B. Definitions – same as those used in CSA unless otherwise stated herein.
- C. TCIF Baseline Amendment submittal:
  1. The Port will apply to CTC for permission to amend the Port's Baseline Agreements to (i) remove the 7<sup>th</sup> Street Project from TCIF funding, (ii) add the \$110M in TCIF funds from the 7<sup>th</sup> Street Project to OHIT, (iii) revise the OHIT project description to specifically include improvements to Burma Road, a new bulk terminal at Berth 7 and other trade and logistics improvements on the City's side of the OAB, and (iv) add the City as a co-signatory to the amended OHIT Baseline Agreement. The estimated total TCIF funding for the revised OHIT project will be \$242.1 million, and the proposed amendment to the OHIT Baseline Agreement will reflect that the TCIF funds will be matched by a combination of public and private investments, for a total project cost of approximately \$484.2 million. In the event that insufficient matching funds are raised by the parties, the City and the Port agree to work cooperatively to either (a) to the extent permitted by CalTrans, reduce the scope of the revised OHIT project and therefore the total amount of the match required for the amended OHIT Baseline Agreement, or (b) raise the additional funds needed to meet the required TCIF match.
  2. The TCIF Baseline Agreement Amendment request will include:
    - a. A revised Project Description for the "OHIT TCIF Project" that includes the following uses (which is further described in the plans and detailed project description attached hereto as Exhibit A):
      - i. New Maritime Street, Burma Road, Wake Avenue (realignment) and a "backbone" utility corridor and other utility infrastructure to serve both the Port and City properties (the "Backbone Infrastructure");
      - ii. Environmental remediation on the Port and City properties necessary to complete the RAP and, in conjunction with the other work, the RMP (respectively, the "Port Environmental Work" and the "City Environmental Work");

- iii. Demolition/de-construction, earthwork, and other site preparation on the Port and City properties as necessary to construct the other project elements (“Site Prep Work”);
- iv. A new rail yard located on the Port property including any utility relocation or protection required to vacate 14<sup>th</sup> Street (the “Fort Rail Terminal”);
- v. Trade and logistics facilities located on the City property (the “City Trade & Logistics Facilities”);
- vi. West Gateway Break Bulk Terminal and rail spur located on the City property (the “Berth 7 Terminal”); and
- vii. Recycling facilities located on the City property (the “Recycling Facilities”).

The revised Project Description for the “OHIT TCIF Project” set forth in this paragraph C.2.a is hereafter referred to collectively as the “OHIT Project.”

- b. A description of the environmental benefits of the revised project description;
- c. The Project Delivery Schedule for City Lead Improvements (defined below), attached hereto as Exhibit B, and Project Delivery Schedule for the Port Rail Terminal, attached hereto as Exhibit C.

- 3. A Financial Plan identifying sources and uses and matching commitments based on the following:

Table 1

	Total Cost	Port	City	City Private Match	TCIF
Remediation	11.4	5.7	5.7	-	-
Port Rail Terminal	79.6	10*	3.8	-	65.8
Backbone Infrastructure	247.2	-	45.0	25.9	176.30
Recycling Facilities	46.6	-	-	46.6	-
City Logistics	99.4	-	-	99.4	-
<b>TOTAL</b>	<b>484.2</b>	<b>15.7</b>	<b>54.5</b>	<b>171.9</b>	<b>242.1</b>

\* Subject to Port Board approval

D. Other Amendments to the Cost Sharing Agreement:

- 1. If the Port succeeds in amending the Baseline Agreements as described above, the City agrees to provide the non-Port and the non-TCIF funds set forth in Table 1 above as matching funds for the revised OHIT Project. In exchange, the City and Port agree to allocate and use the TCIF funds in accordance with the uses shown in Table 1.
- 2. ACTC Funds: The Port will seek ACTC funding of approximately \$271 million (“2012 ACTC Funds”) for the development of the 7<sup>th</sup> Street Project and other development activities on the Port’s side of OAB, and, contingent upon the Port succeeding in amending the Baseline Agreements as described above and the TCIF



funds actually being available to fund the OHIT Project, the City shall use good faith and reasonable efforts to support the Port's efforts to obtain such 2012 ACTC Funds. In the event that the 2012 ACTC Funds are issued in phases and ACTC determines that the Port is not ready/eligible for a particular phase, the City may, at its sole cost, apply for and receive funds from such phase for the OHIT Project (or other City projects).

3. **Development Elements of the Port/City OHIT Project:** The development elements to be included in the proposed Port and City portions of the OHIT Project described in Paragraph C.2.a above and the 7<sup>th</sup> Street Project are referred to collectively herein as the "Development Elements" and individually as a "Development Element." However, the 7<sup>th</sup> Street Project shall not be a Development Element that will be funded by TCIF funds.
4. **CEQA/NEPA Review of the OAB Project.** Each of the Development Elements have been incorporated into the 2012 Oakland Army Base Project Description dated March 28, 2012 prepared by LSA Associates, Inc. (the "Project Description"), which is the Project Description agreed upon between the City and the Port pursuant to Section 5.02 of the initial Cost Sharing Agreement. Such Project Description shall be used to complete the CEQA review of the OHIT Project as contemplated by Section 5.02 of the initial Cost Sharing Agreement.
5. **Master Infrastructure Development Planning.** Each of the Development Elements have also been incorporated into the Oakland Army Base Master Plan Design Set dated April 2, 2012 prepared by Architectural Dimensions Master Design Team (the "Master Plan") which is the master infrastructure plan that the parties agreed upon in concept pursuant to Section 5.03 of the initial Cost Sharing Agreement subject to comments previously provided by the Port being adequately addressed. Notwithstanding the foregoing to the contrary, each party reserves the right to provide comments regarding proposed revisions to the Master Plan (both changes and supplemental comments) and the parties shall negotiate in good faith regarding the same. If the agreed upon changes to the Master Plan result in corresponding changes to the project documents/information (baseline budgets, TCIF funds, matching funds, plans, etc.) the parties shall cooperate to make applicable changes.
6. **Detailed Designs.** The detailed designs contemplated by Section 5.04 of the initial Cost Sharing Agreement ("Construction Drawings") shall be developed as follows:
  - a. **Port Lead Improvements.** The Port shall be responsible for developing the Construction Drawings for the Port Rail Terminal, Port Environmental Work and related Site Prep Work on the Port property (the "Port Lead Improvements"). Subject to the provisions of the agreed upon design review process (see below) and force majeure delay, the Port shall develop the Construction Drawings for the Port Lead Improvements pursuant to the Project Delivery Schedule set forth in Exhibit C. Further, only to the extent 2012 ACTC Funds are available, the Port shall prepare Construction Drawings for the 7<sup>th</sup> Street Project pursuant to an agreed upon schedule. The City shall transfer the work product related to the design of the Port Lead

Improvements and the 7<sup>th</sup> Street Project that has been completed to date to the Port and the Port shall provide the City, CCIG and all design consultants with appropriate releases of claims associated with any work product incorporated by the Port into its Construction Drawings (defined below).

- b. City Lead Improvements. The City shall be responsible for completing the detailed designs for the Backbone Infrastructure, City Environmental Work, City Trade & Logistics Facilities, Berth 7 Terminal, Recycling Facilities and related Site Prep Work (collectively, the "City Lead Improvements"). Subject to the provisions of the agreed upon design review process (see below) and force majeure delay, the City shall develop the detailed plans for the City Lead Improvements pursuant to the Site Delivery Schedule set forth in Exhibit B.
  - c. Design Coordination/Process. The amended Cost Sharing Agreement will include a design coordination process which shall be adhered to by each party and their consultants and contractors in designing Backbone Infrastructure, Port Rail Terminal, the 7<sup>th</sup> Street Project (only if 2012 ACTC Funds are available) and related Site Prep Work (each, a "Common Development Element"). No phase of any Common Development Element shall be commenced unless and until each party has approved in writing (or been deemed to have been approved pursuant to a mutually agreed upon process) the final construction drawings for such Common Development Element. Neither party shall unreasonably withhold, condition or delay its approval of a design that is consistent with the applicable portion of the Project Description and related CEQA Addendum and Master Plan. The design process shall include requirements for detailed support/explanation of any disapproval and that submittals shall be deemed approved if not disapproved within a specified time period.
7. **Right of Way and Permits**. Each party shall be responsible for obtaining the right of way and permits necessary to deliver the improvements for which they are responsible for delivering.

To the extent that the construction of Backbone Infrastructure requires right of way or easements (construction, utility and access) over a portion of a parties' property, the owner of such property shall provide the same upon written request and without requiring consideration therefor. Notwithstanding the foregoing, the parties shall develop standard indemnity and insurance provisions with request to construction easements, and the parties may impose reasonable conditions on the uses of such rights of way or easements. To the extent the construction of other Development Elements require rights of way or easements over a portion of a party's property, the owner of such property shall consider and meet and confer with the party who needs such right of way or easement to negotiate in good faith the terms and conditions for such right of way or easement.

To the extent feasible, the parties shall coordinate and cooperate in the other parties' efforts to obtain the required permits.

8. **Lead Entity for Development and Delivery of Development Elements:** The Port shall be responsible for commencing and completing the construction of the Port Lead Improvements pursuant to the Project Delivery Schedule set forth in Exhibit C. Further, subject to the availability of the 2012 ACTC Funds, the Port shall be responsible for commencing and completing the construction of the 7<sup>th</sup> Street project pursuant to an agreed upon schedule. The City shall be responsible for commencing and completing the construction of the City Lead Improvements pursuant to the Project Delivery Schedule set forth in Exhibit B.

The City and the Port shall hereby agree that the baseline budget for each Development Element as shown in the total cost column of Table 1. Such baseline budget includes an agreed-upon percentage of total contract costs allocated for contingency approvals. The party that takes the lead in the development and delivery of each such Development Element shall be solely responsible (as between the City and the Port) for any construction costs that exceed such baseline budget. Notwithstanding the foregoing to the contrary, each party shall be responsible for costs associated with maintaining temporary utilities to their own property. If any party completes the development of any Development Element for less than the amount agreed upon as the baseline budget for that Development Element, then the party who achieved such cost savings may apply such cost savings to other Development Elements on its portion of the OAB.

The City shall be solely responsible (as between the City and the Port) for accounting for and compliance with all TCIF requirements for the City Lead Improvements. The Port shall be solely responsible (as between the City and the Port) for accounting for and compliance with all TCIF requirements for the Port Rail Terminal.

Each lead party shall apply their own procurement rules, policies and “community benefits” to the improvements that they are charged with delivering under the Cost Sharing Agreement, regardless of where the improvements are located. However, the parties shall reasonably cooperate and agree upon insurance requirements related to the development of any Common Development Element, particularly as it relates to the release or presence of any hazardous materials. The non-lead party may require reports regarding contracting that are reasonably required to satisfy such parties reporting requirements.

The parties shall negotiate in good faith regarding reasonable, mutual assurances related to the timely delivery of the Common Development Elements and the commencement of operations at the Port Rail Terminal.

The parties shall negotiate in good faith regarding procedures to deal with traffic control, temporary utilities, temporary parking, construction storage and temporary tenant relocation.

9. **City commitment to Design/Build construction methodology:** In order to meet the TCIF schedule and to be consistent with its RFQ, RFP, ENA, and LDDA negotiations, it is the intent that (a) the City will work with the City’s developer of the

City's side of OAB on the construction of the City Lead Improvements using the proposed design/build basis and (b) the Port will implement its own design/build process for the construction of the Port Lead Improvements.

10. The City and the Port shall agree upon a schedule for the rail yard to be operational (operator and equipment in place and services available), which schedule shall be coordinated with the completion and operation of agreed upon phases of the City Lead Improvements.
11. **Port Commitment to permit City access to Rail Terminal.** In recognition of the City's needs for rail access to the Port Rail Terminal, the Port and City will negotiate in good faith an agreement for the Port Rail Terminal to serve the City's rail needs within the following parameters: (i) the Port shall use commercially reasonable efforts to select the operator of the Port Rail Terminal no later than a date to be agreed upon between the City and the Port; (ii) upon completion of the initial Phase of the Port Rail Terminal, the Port shall require its operator of the Port Rail Terminal to provide rail services to the City's rail needs for a period of 20 years as follows: (a) priority rail service to City's rail needs for up to 50% of the train capacity at the Support Yard (the 8 unit train tracks) portion of the Port Rail Terminal, provided that if the City's rail needs are not utilizing 50% of the train capacity at the Support Yard portion of the Port Rail Terminal, the Port shall have the right to use such train capacity for Port rail needs, and (b) priority rail service to Port's rail needs for up to 50% of the train capacity at the Support Yard portion of the Port Rail Terminal, provided that if the Port's rail needs, the City shall have the right to use such train capacity for City rail needs; and (c) the new Knight Rail Yard (manifest train tracks) shall be operated on a first-come/first-served basis; (iii) the City and its tenants shall be required to pay the standard operator charges and Port rail tariffs as such charges and tariffs may be adjusted from time to time by the Port Board (which charges shall be transparent, market rate (consistent with other West coast rail facilities) and non-discriminatory (as between City/Port tenants/customers); and (iv) should the demand for rail service from both the City's and the Port's rail needs reach or exceed [80]% of the rail terminal's total capacity to serve all the interested customers for a continuous period of 12 consecutive months within 10 years after the completion of the Port Rail Terminal, the Port and the City shall negotiate in good faith for the expansion of the Port Rail Terminal. Additionally, upon the expiration of the term of the City's priority use, the City shall have non-exclusive, non-priority access to the Support Yard upon market rate terms.

In the event the Port operator is unable to deliver the rail services as provided in the preceding paragraph, the City shall have the right to provide such services for its own uses of the Port Rail Terminal using its own operator. In such an event, the City and the Port shall negotiate in good faith the terms and conditions for the City's operator to enter and use the Port Rail Terminal at market rates. Additionally, the parties agree that the Port will not prohibit Oakland Global Rail Enterprise from responding to the Port's operator RFP.

12. The City and Port Agree to Cooperate in Good Faith to Seek Other Sources of Financing for the Development Elements if needed.

### 13. Performance Schedule:

- July 31, 2012 deadline for CEQA and LDDA agreements with City developers
- November 2012 ACTC transportation sales tax vote
- June 2013 Notice to Proceed
- Dec 2013 construction start, absolute TCIF deadline.

### E. General

While this term sheet summarizes certain essential terms of a proposed amendment to the Cost Sharing Agreement, it does not set forth all of the material terms and conditions of that document. This term sheet is not intended to be, and will not become, contractually binding on the City or the Port, and no legal obligation will exist unless and until the parties have negotiated, executed and delivered a mutually acceptable amendment to the Cost Sharing Agreement based upon this term sheet. The City and the Port retain the absolute discretion before any final action on the proposed amendment to the Cost Sharing Agreement by the City Council and the Board of Port Commissioners, as applicable, to make such modifications to the Cost Sharing Agreement, the proposed amended OHIT Project, and this term sheet.

## Attachment B

### Additional Terms to Be Negotiated by the City Administrator

Provisions addressing the following:

- (1) Deadlines, penalties, and a City self-help option regarding the Port's construction and operation of the rail yard;
- (2) The inclusion of a Community Facilities District for property maintenance;
- (3) An agreement to lease certain Port-owned billboard sites to the City in exchange for consideration;
- (4) The exchange of certain property in the North Gateway portion of the former Oakland Army Base for a portion of the Central Gateway (which exchange will be subject to further Council approval by way of a future ordinance);
- (5) A process whereby the Parties grant each other access and permits to support the Army Base Master Plan; and
- (6) An agreement about responsibility among the parties regarding the possible partial demolition of any warehouse on the subject property.