



Executive Director's  
Report to the  
Board of Harbor Commissioners

**DATE: JUNE 6, 2024**

**FROM: CARGO & INDUSTRIAL REAL ESTATE**

**SUBJECT: RESOLUTION NO. \_\_\_\_\_ APPROVAL OF CONSENT TO ENTER AND CONSTRUCT AGREEMENT BETWEEN THE CITY OF LOS ANGELES HARBOR DEPARTMENT AND PORT OF LONG BEACH FOR THE PORT OF LONG BEACH PIER B ON-DOCK RAIL SUPPORT FACILITY – LOCOMOTIVE FACILITY PROJECT**

**SUMMARY:**

Staff requests approval of a Consent to Enter and Construct Agreement (CECA) with the Port of Long Beach (POLB) to grant permission to the POLB to perform work related to its Pier B On-Dock Rail Support Facility Program (Pier B Rail Program or Program), specifically the Locomotive Facility Project (LFP) component of the Program, on property jointly-owned by the City of Los Angeles Harbor Department (Harbor Department) and the POLB. Concurrent with this action, the Board is considering i) Findings of Fact, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Plan for the Pier B On-Dock Rail Support Facility Project (State Clearinghouse No. 2009081079); and ii) a Memorandum of Agreement also concerning the Pier B On-Dock Rail Program regarding terms and conditions impacting the Alameda Corridor Transportation Authority (ACTA). There will be no financial impact to the Harbor Department if this CECA is approved.

**RECOMMENDATION:**

It is recommended that the Board of Harbor Commissioners (Board):

1. Find that the Director of Environmental Management has determined that the proposed action has been previously evaluated pursuant to the requirements of the California Environmental Quality Act (CEQA) under Article II Section 2(i) of the Los Angeles City CEQA Guidelines;
2. Approve the Consent to Enter and Construct Agreement with the City of Los Angeles Harbor Department and Port of Long Beach;
3. Authorize the Executive Director to execute and the Board Secretary to attest to the Consent to Enter and Construct Agreement on behalf of the Board; and
4. Adopt Resolution No. \_\_\_\_\_.

**DISCUSSION:**

The purpose of this action is to grant the POLB the right to enter and perform construction on property jointly-owned by the Harbor Department and POLB for purposes of carrying out the LFP element of its Pier B Rail Program (Transmittal 1).

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Background on Pier B Rail Program – For a detailed description of the Pier B Rail Program please refer to the companion item submitted by the Environmental Management Division for the June 27, 2024, Board meeting entitled: Findings of Fact, Statement of Overriding Considerations, and Mitigation Monitoring and Reporting Plan for the Pier B On-Dock Rail Support Facility Project (State Clearinghouse No. 2009081079).

Background on Jointly-owned Property – On December 22, 1994, the Harbor Department and the POLB jointly purchased rail properties as part of the ACTA construction project. The properties acquired include the former Southern Pacific Railroad (SPRR) and Union Pacific Railroad right-of-way within the County of Los Angeles and are held by the Harbor Department and POLB (collectively Ports) as tenants-in-common, with each holding an undivided 50 percent interest in the properties. In addition, the Ports became successors-in-interest to all railroad agreements, leases, and licenses related to the acquired railroad right-of-way. The Ports executed the Tenancy in Common Agreement (TICA) following the acquisition of the properties for the ACTA project to catalogue the jointly held properties and acknowledge the mutual property rights held. The TICA sets forth a process for developing real estate entitlements for use in managing the joint property and making recommendations to the Ports' respective boards regarding capital improvements and maintenance. Staff from both Ports determined a portion of the LFP requires use and occupancy of jointly owned property and agreed that the proposed CECA is the appropriate instrument to issue to POLB so that it can undertake the project.

Background on LFP - The LFP is among the first elements of the proposed POLB Pier B On-Dock Rail Support Facility Program (Transmittal 1) to be executed. Certain LFP components will be built on a portion of the property jointly-owned by the Harbor Department and POLB identified in Transmittal 2 Premises Area Map (Premises). More specifically, the LFP's signal connection at the signal cabinet will be located on the Premises.

Property Requirements - While existing instruments govern the use, operation and maintenance of joint-port property and Alameda Corridor including a TICA, Use and Operating Agreement and Memorandums of Agreement, no such agreement specifically entitles or confers proper rights germane to the work related to the LFP. Thus, it is incumbent upon the Board to consider the CECA for approval so POLB may proceed with the work on the LFP. POLB will require additional property for remaining Pier B project elements, which will require Board approval in the future for those separate transactions when finalized.

The LFP is for, and predominantly benefits, POLB; therefore, POLB is responsible for all costs. The CECA addresses specific details of the work and is summarized in Table 1.

Below is a summary of Consent to Enter and Construct Agreement Terms & Conditions (Transmittal 3).

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<b><u>Provisions</u></b>	<b><u>Description</u></b>
Premises	North side of the Long Beach Lead tracks at the corner of Farragut Avenue and Southern Pacific Drive, Wilmington, CA (Transmittal 2).
Term	The date of the last party (Harbor Department and POLB) to sign to the earlier of: i) three years; or ii) the date that the LFP is completed and confirmed in writing by the parties (Expiration Date).
Costs	All costs will be borne by POLB. No rent is due.
Permitted Use	Construct improvements related to the LFP.
Indemnification	POLB will indemnify all parties to the Consent to Enter and Construct Agreement for any liabilities arising from the construction and operations.
Insurance	\$1M general liability, deletion of railroad exclusion (work within 50' of rail track), \$1M auto liability; and POLB has a right to self-insure.

**ENVIRONMENTAL ASSESSMENT:**

The proposed action is approval of a CECA with POLB to grant permission to perform work related to the Pier B Rail Program. The POLB, as the Lead Agency under CEQA, certified the FEIR (State Clearinghouse No. 2009081079) for the Pier B On-Dock Rail Support Facility Project on January 12, 2018, and considered project modifications through an Addendum in 2023. The Harbor Department is a Responsible Agency under CEQA due to the aforementioned property ownership. As such, the Harbor Department is required to consider POLB's CEQA Documents and approve the Findings of Fact, Statement of Overriding Considerations, and the Mitigation Monitoring and Reporting Program for the Pier B Rail Program before approving this CECA. Assuming prior Board adoption of these, as contained in a separate Board report, the Director of Environmental Management has determined that the proposed action has been previously evaluated pursuant to the requirements of CEQA under Article II Section 2(i) of the Los Angeles City CEQA Guidelines. Staff will also be seeking approval of the Memorandum of Agreement for the Program.

**FINANCIAL IMPACT:**

There are no financial impacts to the Harbor Department if this Consent to Enter and Construct is approved. Approval of the proposed CECA formalizes the Harbor

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Department and POLB responsibilities related to the proposed LFP. POLB will be responsible for all costs associated with the LFP.

**CITY ATTORNEY:**

The proposed Consent to Enter and Construct Agreement has been reviewed and approved as to form and legality by the Office of the City Attorney.

**TRANSMITTALS:**

1. LFP Area Map
2. Premise Area Map
3. Consent to Enter and Construct Agreement

FIS Approval: JS  
CA Approval: SO

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Director of Cargo & Industrial Real Estate

*Dina Aryan-Zahlan*  
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APPROVED:

*Erica M. Calhoun* for

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Executive Director

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