

MEMORANDUM

May 4, 2017

TO: MEMBERS, PORT COMMISSION
Hon. Willie Adams, President
Hon. Kimberly Brandon, Vice President
Hon. Leslie Katz
Hon. Eleni Kounalakis
Hon. Doreen Woo Ho

FROM: Elaine Forbes
Executive Director

SUBJECT: Informational presentation providing quarterly update on the Port's FY 2016-17 Federal and State Legislation Program

DIRECTOR'S RECOMMENDATION: Informational Only; No Action Required

EXECUTIVE SUMMARY

On September 27, 2016, the Port Commission heard an informational presentation about the Port's legislative strategy¹. On December 13, 2016, the Port Commission heard a presentation on the Port's proposed FY 2016-17 Federal and State Legislation Program.

This staff report provides a quarterly update on activity around the Port's legislative program. In addition to other updates, it includes a summary of the April 26-28, 2017 trip to Washington, D.C., made in concert with the San Francisco Chamber of Commerce, by Port Commission Vice President Kimberly Brandon, Executive Director Elaine Forbes, Chief Operating Officer Byron Rhett and Special Projects Director Brad Benson².

THIS PRINT COVERS CALENDAR ITEM NO. 13B

¹ For a copy of the September 23, 2016 Port Commission staff report describing the Port's legislative program, please see:

<http://sfport.com/file/16628>

² For a copy of the December 9, 2016 Port Commission staff report describing the Port's FY2016-17 Federal and State Legislation Priorities, please see:

<http://sfport.com/file/17734>

PORT WASHINGTON, D.C. DELEGATION

From April 26-28, 2017, Port Commission Vice President Kimberly Brandon, Executive Director Elaine Forbes, Chief Operating Officer Byron Rhett and Special Projects Director Brad Benson (the Port delegation) visited Washington, D.C. with the San Francisco Chamber of Commerce (“San Francisco Chamber”). Staff is extremely grateful to Vice President Brandon for dedicating the time to join staff on this trip and representing the Commission’s interest in our efforts.

Every year, the San Francisco Chamber organizes a visit to Washington, D.C. with visits with California’s Congressional delegation and opportunities to meet with legislative leaders and staff on a variety of topics of interest to San Francisco Chamber members, including transportation, health care, and the hospitality industry. This year’s Chamber delegation included three members of the Board of Supervisors, including Board President London Breed (District 5), Supervisor Hillary Ronen (District 9) and Supervisor Jeff Sheehy (District 8).

During this visit, the Port delegation joined the Chamber delegation in its meetings with Democratic Minority Leader Representative Nancy Pelosi (CA – 12th District), California Senators Dianne Feinstein and Kamala Harris, as well as meetings with Congressman Mark DeSaulnier (CA – 11th District). The Port delegation was able to discuss the Seawall with both Senators and Congressman DeSaulnier, which also provided the opportunity to underscore the importance of the Seawall Resiliency Project with members of the Chamber delegation.

In addition, Special Projects staff collaborated with the Port’s federal advocate Holland & Knight to arrange a series of Port-only, Seawall-focused meetings, including:

- Robert Edmonson, Leader Pelosi’s Chief of Staff. During this meeting, the Port delegation discussed the Port’s entire federal legislative agenda, including the Seawall Resiliency Project, Central Basin dredging, Alcatraz Landing, and funding for the Southern Waterfront, including public realm improvements along Cargo Way and Amador Street.
- Congressman Garamendi (CA – 3rd District), Congressman Alan Lowenthal (CA – 47th District), and House Transportation & Infrastructure Minority Staff, all focused on funding options for the Seawall.
- Senator Tom Carper (Delaware) and staff, which focused on the funding options for the Seawall.

The key take-aways from the trip were:

- Leader Pelosi, Senator Feinstein and Senator Harris have all expressed an interest in the Seawall. Mayor Edwin Lee has made this project a priority with our Federal delegation. As a result, the Port is well-positioned to make specific legislative requests to support the Seawall Resiliency Project when the project

further matures and appropriate legislative vehicles are moving through Congress.

- The U.S. Army Corps of Engineers' Water Resources Development Act – while a difficult legislative process to navigate – is a strong potential avenue for funding the Seawall, provided the Port and USACE District staff can demonstrate a strong cost-benefit ratio for federal funding for the Seawall Resiliency Project.
- The infrastructure bill that is frequently mentioned as a potential item on President Trump's agenda has no consensus framework of which members are aware. Most members of Congress expect that proposal to be considered in the fall, or possibly next year.

In advance of the trip, Port staff coordinated with San Francisco Chamber staff to arrange a visit to the Forest City Yards mixed use development project along the Anacostia River. The project includes new residential development, historic rehabilitation, waterfront public open space and planned commercial development, and represents a future window to Pier 70. Chamber members visited The Yards on Thursday April, 27, and the Port delegation visited on Friday, April 28. Staff was impressed by the quality of the project, including the public open space along the Anacostia, the gracious entry-ways to buildings, and the attention to curating local businesses for retail opportunities in the project.

Port staff is extremely grateful to the San Francisco Chamber, including its Board leadership, Senior Vice President – Public Policy Jim Lazarus, Vice President – Public Policy Dee Dee Workman, Public Policy Manager Alexander Mitra and the other Chamber staff who organized an excellent trip with a compelling agenda of speakers and topics.

Port staff is likewise grateful for the efforts of Holland & Knight, including Eve O'Toole and Lauri Hettinger and Mayor Lee's federal legislative staff Kathryn Angotti who attended all of the Port meetings.

PROPOSED FEDERAL LEGISLATIVE PROGRAM

Port staff is pursuing a variety of federal legislative priorities that will support Seawall and other infrastructure and operational needs.

U.S. Army Corps of Engineers ("USACE") – Continuing Authorities Program 103 ("CAP103") Seawall Project

On November 29, 2016 the Port of San Francisco received a report from the USACE San Francisco District Office with a finding of *federal interest* in a federal project to address flood risk along a portion of The Embarcadero near the Ferry Building under the USACE Continuing Authorities Program 103 ("CAP103"). The next phase of the CAP103 process is for the Port and USACE to enter into a Federal Cost Sharing Agreement ("FCSA"), which will allow USACE access to federal funding necessary in

order to complete a Feasibility Study for the project a document that typically concludes with a USACE-recommended construction project to address the underlying flood control issue. CAP103 projects are limited to \$10 million in federal funding.

At the March 27, 2017 meeting of the Port Commission, Port staff requested authorization to enter into an FCSA with USACE, with the agreement including the following key terms³:

- It requires the Port as non-federal sponsor for study of the seawall to share in the cost of the Feasibility Study with USACE at a ratio of 50/50;
- The Port is allowed in-kind credit for certain services rendered in furtherance of the study, in coordination with USACE;
- Though the estimate for the Feasibility Study is \$800,000, the FCSA allows USACE to proceed with a Feasibility Study with a budget of up to \$1.5 million, the standard maximum allowable study cost under the CAP103 authority; and
- Although USACE estimates completion of the study at the end of calendar year 2018, or 21 months, the FCSA recites the standard maximum allowable time of 36 months for completion of the study.

By Resolution 17-16, the Commission authorized the Port to enter into the FCSA. Since that time, Port staff have finalized the USACE-required Project Management Plan. Upon agreement as to form of the final FCSA by the City Attorney (currently pending), all necessary precursor work will be complete, allowing Executive Director Forbes to execute the agreement.

USACE General Investigation of the Seawall

Much of the work anticipated through the CAP103 Seawall Project FCSA is expected to support a broader USACE investigation of the San Francisco waterfront. In the USACE letter finding a *federal interest* in the CAP103 project, USACE staff also recommended a General Investigation of the San Francisco waterfront. A General Investigation can lead to a finding of federal interest in a much larger flood control project and a USACE Chief Engineer's report to Congress recommending funding authorization in a future Water Resources Development Act ("WRDA") and subsequent appropriations in future Energy & Water appropriations bills.

Port staff is evaluating two paths to a General Investigation of the San Francisco Waterfront:

³ For a copy of the March 23, 2017 Port Commission CAP103 Seawall Project staff report, please see:

<http://sfport.com/file/20114>

1. Self-fund a General Investigation for the entire Seawall while ensuring the study has USACE oversight and the Port's study meets USACE standards, funded through the Seawall Resiliency Project; and
2. Simultaneously, pursue an appropriation for a Congressionally-funded General Investigation feasibility study.

During the recent meetings in Washington, D.C., Port staff had the opportunity to meet with House and Senate staff who will be key resources in advancing the Port's future WRDA requests related to the Seawall.

USACE Continuing Authorities Program 107 ("CAP107") – Central Basin

The Central Basin dredging project is fully funded, but the schedule for completion in time for a 2017 dredge has very little margin for error⁴. In April, Port staff met with the Long Term Management Strategy ("LTMS") Manager's Committee, consisting of USACE-SF District Commander Lt. Col. John Morrow, Water Board Executive Officer Bruce Wolfe, BCDC Executive Director Larry Goldzband, and EPA Region 9 Assistant Director Jason Brush to present the Port's commitment to beneficial reuse of dredge soils in a manner that would allow permitting of the Central Basin project to move forward. With a clear path to permitting for the Project, execution of the project is now under the control of USACE.

CALIFORNIA – PROPOSED STATE SEAWALL AND SEA LEVEL RISE LEGISLATION

State Lands Commission Presentation

At the invitation of California State Lands Commission Executive Director Jennifer Lucchesi, Port staff gave a presentation on the seawall to the State Lands Commission on April 20, 2017. Similar to prior Port Commission presentations, the presentation described:

- the history of Seawall construction, including the State of California's decision to form the Board of State Harbor Commissioners to build the Seawall;
- the inter-connected nature of the Seawall, the marginal wharf, the bulkhead buildings and the piers;
- Seismic risk and flood risk along The Embarcadero, including risks to critical facilities supported by the Seawall;

⁴ For a copy of the December 9, 2016 Port Commission Central Basin staff report, please see:

<http://sfport.com/file/17740>

- the projected value of assets and economic activity protected by the Seawall that is at risk in a major earthquake or as a result of sea level rise;
- the case for local, state and federal funding to fix the Seawall and address sea level rise; and
- potential state legislative ideas to provide for state funding; and
- the Port's desire to form a coalition of statewide interests to support such legislation and to collaborate with State Lands Commission staff in the Port's planned state legislative efforts.

The presentation generated positive comments from California Lieutenant Governor Gavin Newsom and others, and generated interest from other California ports represented at that forum.

In follow up, Executive Director Forbes requested that state support for port resiliency projects be added to the agenda for the April 23rd meeting of the California Association of Port Authorities (CAPA). At that meeting, other member ports expressed a strong interest in exploring funding vehicles as an association; the CAPA Executive Committee then voted to create a special CAPA committee with the sole purpose of exploring state funding vehicles for port infrastructure resiliency.

State Funding Options for the Seawall and Sea Level Rise

In consultation with the Mayor's Office of Government Affairs and the City's advocates in Sacramento, Shaw, Yoder & Antwih (SYA), Port staff is scheduling follow up meetings with State Lands Commission staff in May to further develop strategy and with legislative committee staff in June to brainstorm funding solutions. Port staff will invite Committee staff to participate in a Port waterside tour of the Seawall to see the extent of public infrastructure and private property that the Seawall protects.

With the help of SYA, the Port is also pursuing individual meetings with the Port's Sacramento delegation – Senator Scott Weiner, Assemblymember David Chiu and Assemblymember Phil Ting – which are expected to occur in May.

These discussions are intended to lay the foundation for a statewide or Seawall-focused funding strategy to address sea level rise in the 2018 legislative session.

SB5 – Current Session

Senate Bill 5 (Senate Pro-Tem De Leon) is proposed in the current legislative session to create a \$3 billion dollar funding source for state and local parks, clean water and drought relief projects, coastal protection, and flood protection. The bill currently includes \$500 million in flood protection funding, primarily targeted at dam improvements in Sacramento and the Central Valley.

Port and San Francisco International Airport staff reviewed the legislation, and have proposed targeted amendments by adding the term “seawall” as an eligible type of flood protection. The legislation is currently awaiting a hearing in the Senate Appropriations Committee in Sacramento.

OTHER CALIFORNIA PRIORITIES

Regional Measure 3 Funds (“RM3”) – Mission Bay Ferry Landing

Port staff are working with the Water Emergency Transportation Agency and the Metropolitan Transportation Commission to support funding from the proposed Regional Measure 3 (“RM3”) for the Mission Bay Ferry Landing⁵ in legislation expected to be considered by the California Legislature. If approved by the Legislature, voters in the nine Bay Area counties would consider at a future election (likely in 2018) whether to raise tolls on state-owned bridges to fund transportation improvements in bridge corridors. Port staff has been successful in elevating the profile of the Mission Bay Ferry Landing, and it now appears on the San Francisco County Transportation Authority (“SFCTA”) list of priority candidate projects for RM3. SFCTA will be taking this list of priority projects to its Board for formal adoption May 9th and 23rd.

NEXT STEPS

Port staff will return to the Port Commission in the fall for the next quarterly update on activities related to implementation of the Port’s federal and state legislation program.

Prepared by: Daley Dunham, Special Projects Manager
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⁵ For a copy of the December 9, 2016 Port Commission Mission Bay Ferry Landing staff report, please see:

<http://sfport.com/file/17728>