

HEP

## BOARD OF PORT COMMISSIONERS CITY OF OAKLAND

RESOLUTION APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO WAIVE FORMAL COMPETITIVE PROCUREMENT PROCEDURES AND EXECUTE A SUPPLEMENTAL AGREEMENT TO THE EXISTING PROFESSIONAL SERVICES AGREEMENT WITH THE ALLIANCE, INC. TO EXTEND THE TERM THREE ADDITIONAL YEARS THROUGH DECEMBER 31, 2026 AND ADD \$300,000 TO THE MAXIMUM COMPENSATION FOR A TOTAL OF \$470,000 TO CONTINUE PROVIDING DESIGN REVIEW AND PROGRAM IMPLEMENTATION ASSISTANCE FOR THE FOOD AND BEVERAGE AND RETAIL AND DUTY-FREE CONCESSIONS PROGRAMS.

**WHEREAS**, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report for Agenda Item No. 2.1, dated June 8, 2023, and related agenda materials ("Agenda Report"), has received the expert testimony of Port of Oakland ("Port") staff, and has provided opportunities for and taken public comment; and

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

**NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:**

**Section 1.** Based upon the information contained in the Agenda Report and in testimony received, the Board finds and determines that:

A. The proposed action is not subject to the California Environmental Quality Act because the proposed action does not involve an activity that may cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment as further defined in Section 21065 of the Public Resources Code.

B. The proposed action is for obtaining professional, scientific, or technical services that are temporary in nature and will not result in the loss of employment or salary by any person having permanent status in the competitive service.

**Section 2.** The Board hereby approves and authorizes the Executive Director to:

A. Waive formal competitive procurement procedures and execute a supplemental agreement to the existing Professional Services Agreement with The Alliance, Inc. to extend the term for three additional years through December 31, 2026 and add \$300,000 to the maximum compensation for a total of \$470,000 to continue providing design review and program implementation assistance for the food and beverage and retail and duty-free concessions programs, as further described in the Agenda Report, subject to approval as to form and legality by the Port Attorney; and

B. Make any additions, modifications, or corrections necessary to execute the requested agreement or to correct errors, subject to the limitations set forth herein, provided that any addition, modification, or correction does not materially differ from the terms and conditions set forth herein and in the Agenda Report, and are approved as to form and legality by the Port Attorney.

**Section 3.** This resolution is not evidence of and does not create or constitute: (a) a contract, or the grant of any right, entitlement, or property interest; or (b) any obligation or liability on the part of the Board or any officer or employee of the Port. This resolution approves and authorizes the execution of a contract in accordance with the terms of this resolution. Unless and until a separate written contract is duly executed on behalf of the Board as authorized by this resolution, is signed as approved as to form and legality by the Port Attorney, and is delivered to other contracting party, there shall be no valid or effective contract.

**Section 4.** This resolution shall be effective immediately upon adoption by the Board.