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## BOARD OF PORT COMMISSIONERS CITY OF OAKLAND

**RESOLUTION APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A MEMORANDUM OF UNDERSTANDING WITH THE U.S. ARMY CORPS OF ENGINEERS FOR IN-KIND SERVICES FOR THE PROPOSED OAKLAND HARBOR TURNING BASINS WIDENING PROJECT; AND FINDING THAT THE PROPOSED ACTION IS EXEMPT UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

**WHEREAS**, the Board of Port Commissioners ("Board") has reviewed and evaluated Agenda Report Item 6.1 dated May 22, 2025, 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**, the Port has been working closely with the United States Army Corps of Engineers ("USACE") on the proposed Oakland Inner Harbor and Outer Harbor turning basins project ("Proposed Project"); and

**WHEREAS**, 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 related agenda materials and in testimony received;

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

**Section 1.** The action to enter into a Memorandum Of Understanding with the USACE for In-Kind Services For The Proposed Project ("Agreement") was reviewed in accordance with the requirements of the California Environmental Quality Act ("CEQA"). Per Section 15061(b)(3) of the CEQA Guidelines, it can be seen with certainty that there is no possibility that this action may have a significant effect on the environment and this action is not subject to CEQA. The CEQA determination is limited to the Agreement only and does not constitute approval of the Proposed Project, for which a Final Environmental Impact Report has not yet been certified.

**Section 2.** The Board hereby:

A. Approves and authorizes the Port's Executive Director to execute an Agreement with the USACE to outline the terms upon which (a) the Port Design Work will advance, and (b) the Port's expenditure will be credited toward the non-Federal contribution of funds for the Proposed Project in the planned future design agreement, and as further described herein and in the Agenda Report.

B. Authorizes the Executive Director to (i) execute such Agreement, subject to approval as to form and legality by the Port Attorney, and (ii) make such additions, modifications, or corrections as necessary to implement the Agreement, provided that any such addition, modification, or correction does not materially differ from the terms and conditions set forth herein and in the Agenda Report, subject to approval 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 an agreement(s) in accordance with the terms of this resolution. Unless and until a separate written agreement(s) is duly executed on behalf of the Board as authorized by this resolution, is signed and approved as to form and legality by the Port Attorney, and is delivered to the contracting party, there shall be no valid or effective agreement(s).

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