



PORT OF OAKLAND
EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (the “Agreement”) is made and is effective upon signing between the City of Oakland, a municipal corporation, acting by and through its Board of Port Commissioners (the “Board” or “Port”) and Kristi McKenney (the “Employee”), collectively the “Parties.”

BACKGROUND

The Board desires to appoint the Employee as the Executive Director of the Port. The Port also desires to provide certain compensation and benefits to the Employee to induce the Employee to continue employment with the Port for a thirty-four (34) month term and to enhance the Employee’s ability to perform effectively as the Port’s Executive Director during that period.

The Employee is willing to be employed by the Port on the terms and subject to the conditions set forth in this Agreement. This Agreement replaces and supersedes any and all prior agreements, offers of employment or obligations between the Port and the Employee.

THE PARTIES AGREE AS FOLLOWS:

1. Term. The terms and conditions of this Agreement shall be in effect for thirty-four (34) months commencing on March 1, 2025 and expiring at midnight on December 31, 2027 (“Term”); provided however, this Agreement may be terminated by either the Employee or the Port as provided below, or amended by mutual written agreement between the Parties.

2. Positions and Duties.

2.1. Executive Director. The Port shall employ the Employee as its Executive Director and the Port agrees to employ and retain the Employee in such capacity in accordance with the terms and conditions of this Agreement.

2.2. Duties. As the Executive Director, the Employee shall report to the Board and carry out the duties and exercise the powers delegated and assigned to the Employee by the Board and diligently perform duties assigned pursuant to Port policies, the laws of the United States, the State of California, and other applicable laws and regulations (“Laws”). The Executive Director shall be responsible for achieving the strategic goals and objectives established by the Board, including ensuring sound financial stability, economic development, transparency, and legal compliance as a steward of the Port. The Employee shall devote all of her business and professional time, energy, and skill to the affairs of the Port; provided, however, that reasonable time for personal business, charitable or professional development activities shall be permitted, so long as such activities do not materially interfere with the Employee’s performance of services under this Agreement. The Employee’s services will primarily be performed at 530 Water Street, Jack London Square, Oakland, California and, as necessary, at any other Port facility.

Terms of Employment.

3.1. Definitions. For purposes of this Agreement, the following terms shall have the following meanings:

(a) “***Accrued Compensation***” shall mean any accrued total cash compensation, any accrued benefits under any plan of the Port in which the Employee is a participant to the full extent of the Employee’s rights under such plans, any accrued vacation pay, and any unreimbursed appropriate business expenses incurred by the Employee in connection with the performance of duties hereunder, all to the extent unpaid on the date of termination.

(b) “***Base Salary***” shall have the meaning set forth in Section 4.1 hereof.

(c) “***Termination Due to Death***” shall mean termination of the Employee’s employment because of the death of the Employee.

(d) “***Separation Due to Disability***” shall mean separation of the Employee from employment with the Port because of the Employee’s Disability. For purposes of this Agreement, Disability shall mean a physical or mental impairment that prevents the Employee from performing the essential functions of his employment under this Agreement, with or without reasonable accommodation, for a period of four (4) successive weeks beyond exhaustion of all accrued sick leave and exhaustion of all leave available (which leave periods may run concurrently as provided for by law) under the Americans with Disabilities Act, the California Fair Employment and Housing Act, the Family Medical Leave Act, the California Family Rights Act and any other statutorily provided leave. Such separation shall be subject to applicable California Public Employees’ Retirement System requirements, if any.

(e) “***Voluntary Termination***” shall mean termination of the Employee’s employment by the voluntary action of the Employee.

3.2. Employee at Will. The Employee is an “at will” employee of the Port. As Executive Director, the Employee serves at the pleasure of the Board, and her employment may be terminated at any time for any reason by the Board by giving written notice thereof to the Employee, subject to the terms and conditions of this Agreement during its Term, including the severance provisions set forth in Section 4.4 of this Agreement. The position of Executive Director is exempt from the operation of the civil service rules of the City of Oakland.

3.3. Termination With Cause. For purposes of this Agreement and without altering the “at will” status of the Employee, “Termination With Cause” means the termination by the Board of the Employee for any one or more of the following reasons: (a) conviction or admission of, or entering of a plea of *nolo contendere* by the Employee of a felony, of any lesser offense involving a violation of her official duties, or of any unlawful act involving moral turpitude or personal gain to her (including fraud, embezzlement, or theft); (b) Employee’s legal disqualification from office; (c) Employee’s willful and material refusal or failure to perform her duties; or (d) determination by the Board, after a hearing of which the Employee has been given due notice, that the Employee has engaged in an act of willful misrepresentation, self-dealing, or knowing violation of a Port

policy and that such act has resulted or will result in damage to the public reputation of the Port, in financial loss to the Port, or in the Port's violation of Law.

Upon the Employee's Termination With Cause, the Port shall pay the Employee only the Employee's accrued compensation.

3.4. Termination Without Cause. Upon Termination of the Employee by the Port other than for Termination With Cause, the Port shall pay the Employee her Accrued Compensation, if any, and Severance Pay as defined by and subject to the conditions of Section 4.4 hereof.

3.5. Voluntary Termination. The Employee shall have the right to effect a Voluntary Termination. The Employee agrees to give at least ninety (90) calendar days advance written notice to the Port for a Voluntary Termination ("notice period"). During such notice period, the Employee shall continue to receive regularly scheduled Base Salary payments and benefits. Upon the effective date of a Voluntary Termination, the Port shall pay to Employee the Employee's Accrued Compensation, if any. Such advance written notice will not be required when the Employee effects a voluntary termination due to a significant health event that results in her unexpected incapacitation or due to the preservation of her pension and/or her retiree healthcare benefits. Voluntary Termination is not subject to the severance provisions set forth in Section 4.4 below.

3.6. Termination Due to Death/Separation Due to Disability. If the Employee is Terminated Due to Death or Separated Due to Disability during the term of this Agreement, the Port shall pay the Employee or her estate, if the Employee is deceased, the Employee's Accrued Compensation, if any. Termination Due to Death or Separation Due to Disability is not subject to the severance provisions set forth in Section 4.4 below.

3.7. Timing of Termination Payments. Unless expressly provided otherwise in this Agreement, or another writing signed by the Port and the Employee, the termination payments set forth in Sections 3.2, 3.3, 3.4, 3.5 and 3.6 shall be made on the Port's normal payroll schedule.

4. Salary, Benefits, Bonus & Severance.

4.1. Base Salary. As payment for the services to be rendered by the Employee as provided in Section 2, the Port shall pay the Employee an annual "Base Salary" of four hundred and fifty-five thousand dollars (\$455,000). The Employee's Base Salary shall be increased by the average of the percent increases, and on the designated effective dates for such increases, as negotiated by the Port's four bargaining units, provided that the increases and their effective dates occur during the Term of this Agreement. The Employee's Base Salary shall be payable on an annualized basis on the Port's normal payroll schedule.

4.2. Additional Compensation and Benefits.

(a) **Benefit Plans.** The Employee and her dependents shall be eligible to participate in the Port's medical plan at the Kaiser rate as well as in the dental, vision, life insurance, and Disability insurance benefit plans as are now generally available or later made generally available to executive management at the Port in employee representation Unit H as created pursuant to Resolution No. 98182 of the Board.

(b) **Expense Reimbursement.** The Port agrees to reimburse the Employee for all reasonable, ordinary, and necessary travel and entertainment expenses incurred by the Employee in conjunction with her services to the Port consistent with the Port's reimbursement policies as they now exist or hereafter may be amended. The Port shall pay travel costs incurred by the Employee in conjunction with her services to the Port consistent with the Port's travel policy as it now exists or hereafter may be amended.

(c) **Vacation.** The Employee shall be entitled to accrue, and to have credited to her personal account, vacation at the annual accrual rate of five (5) weeks of vacation per year, pursuant to the Port's vacation policies for exempt personnel as they now exist or hereafter may be amended.

(d) **Management Leave.** The Employee shall be entitled to seventy-five (75) hours of paid Management Leave per year, pursuant to the Port's policy for Management Leave as it now exists or hereafter may be amended.

(f) **Deferred Compensation.** The Employee shall be eligible to participate in the Port's deferred compensation plan ("457 Plan"), through her own contributions and under the same terms of the 457 Plan applicable to other Port employees.

(g) **Retirement.** The Employee shall be eligible to continue her participation in the California Public Employees' Retirement System ("CalPERS") consistent with all applicable California laws.

(h) **Bonds.** The Port shall pay for or provide any fidelity or other bonds required of the Employee in his capacity as the Port's Executive Director under any Laws.

4.3. No Annual Additional Compensation or Bonus. The Employee shall not be eligible to participate in the same plan as the rest of the Unit H representatives concerning additional compensation ("additional compensation") or "bonus."

4.4. Severance Provisions. In the event the Employee's employment is terminated by the Port other than Voluntary Termination, Termination With Cause, Termination Due to Death or Separation Due to Disability before the end of the Term of this Agreement, the Port shall pay to the Employee a severance payment consisting of a lump-sum payment in an amount equal to the monthly Base Salary then in effect multiplied by the number of months remaining in the Term of this Agreement, but not more than twelve (12) months. The payment of any amounts pursuant to this Subsection is subject to the Employee's execution of the release of claims in a form acceptable to the Board and Port Attorney.

5. Proprietary Information. Contemporaneously with the execution of this Agreement, the Employee agrees to enter into an "Employee Nondisclosure Agreement" in a form approved by the Port Attorney. The Employee Nondisclosure Agreement shall provide that Employee shall not disclose proprietary and confidential information for a period during employment and after termination.

6. Abuse of Office.

6.1. Notwithstanding anything in this Agreement, if the Employee is convicted of a crime involving an abuse of her office or position, she shall fully reimburse the Port for the cost of the following items:

(a) leave salary paid to the Employee pending an investigation of the crime she is convicted of;

(b) funds for the legal criminal defense of the Employee for the crime she is convicted of;

(c) any cash settlement related to the termination of Employee's Agreement, regardless of the terms of her Agreement; and

(d) any payments provided to the Employee that were not agreed upon in this Agreement.

7. *Miscellaneous.*

7.1. *Waiver.* Any waiver of the breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach of the same or other provision hereof.

7.2. *Expiration of Agreement.* Unless extended in writing by the Parties hereto or terminated for any reason under this Agreement, the terms and conditions of this Agreement shall expire at midnight on December 31, 2027.

7.3. *Headings.* The section headings used in this Agreement are intended for convenience of reference and shall not by themselves determine the construction or interpretation of any provision of this Agreement.

7.4. *Governing Law.* This Agreement shall be governed by and construed in accordance with the laws of the State of California applicable to contracts entered into and wholly to be performed within the State of California by California residents.

7.5. *Arbitration.* Any controversy or claim arising out of, or relating to, this Agreement or the breach of this Agreement shall be settled by arbitration by, and in accordance with, the applicable National Rules for the Resolution of Employment Disputes of the American Arbitration Association or such other alternative dispute resolution procedure as the parties shall mutually agree upon. Judgment upon an award rendered by any arbitrator as a result of this process may be entered in any court having jurisdiction. It is agreed that the arbitrator, in his/her discretion, and consistent with the rules of the American Arbitration Association or other alternative dispute resolution body, may assess: (a) against a party, or among the Parties, the arbitrator's compensation, if any; and, (b) for the prevailing party, attorneys' fees, except as otherwise required by law. Arbitration hearings shall be held in Oakland, California unless otherwise agreed to by the Parties. The provisions of California Code of Civil Procedure Section 1283.05 shall apply to any arbitration conducted pursuant to this subsection.

7.6. *Survival of Obligations.* This Agreement shall be binding upon and inure to the benefit of the executors, administrators, heirs, successors, and assigns of the Parties; provided, however, that except as herein expressly provided, this Agreement shall not be assignable either

by the Port (except to an affiliate or successor of the Port) or by the Employee without the prior written consent of the other party.

7.7. Counterparts. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same Agreement.

7.8. Withholding. All sums payable to the Employee hereunder shall be reduced by all federal, state, and local taxes as well as other withholdings and similar taxes and payments as required by applicable Law.

7.9. Enforcement. If any portion of this Agreement is determined to be invalid or unenforceable, such portion shall be revised to the extent possible, rather than voided, in order to achieve the intent of the Parties, and the remainder shall be enforced to the maximum extent possible.

7.10. Entire Agreement; Modifications. Except as otherwise provided herein or in the exhibits hereto, this Agreement represents the entire understanding among the Parties with respect to the subject matter of this Agreement, and this Agreement supersedes any and all prior and contemporaneous understandings, agreements, plans, and negotiations, whether written or oral, with respect to the subject matter hereof, including, without limitation, any understandings, offer letters, agreements, or obligations respecting any past or future compensation, bonuses, reimbursements, or other payments to the Employee from the Port. All modifications to the Agreement must be in writing, signed by each of the Parties hereto, authorized by a resolution of the Board, and approved as to form and legality by the Port Attorney.

8. Notices.

8.1. Notices hereunder shall be in writing and personally delivered or deposited in the U.S. Mail, first class, postage prepaid, addressed as follows:

- a. Board of Port Commissioners
c/o Board Secretary
530 Water Street
Oakland, CA 94607

- b. Kristi McKenney
530 Water Street
Oakland, CA 94607

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IN WITNESS WHEREOF, the Parties hereto have executed this Employment Agreement as of the date set forth below.

CITY OF OAKLAND, A MUNICIPAL
CORPORATION, ACTING BY AND

THROUGH ITS BOARD OF PORT
COMMISSIONERS:

Michael Colbruno
President of the Board

Kristi McKenney,
Employee

Date: _____

Date: _____

EMPLOYEE:

THIS AGREEMENT SHALL NOT BE VALID OR
EFFECTIVE FOR ANY PURPOSE UNLESS AND
UNTIL IT IS SIGNED BY THE PORT ATTORNEY.

Approved as to form and
legality this ___ day of _____, 2025.

Mary Richardson, Port Attorney

Port Resolution No. _____

P.A. #: