

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 17-104

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION
OF A SETTLEMENT AGREEMENT WITH CLEAR CHANNEL
OUTDOOR, INC. D/B/A CLEAR CHANNEL AIRPORTS IN
THE AMOUNT OF \$50,000 WITH RESPECT TO CLAIMS FOR
UNPAID PERCENTAGE FEES AND ASSOCIATED
DELINQUENCY FEES.**

WHEREAS, pursuant to an audit, the Port of Oakland ("Port") claimed that Clear Channel Outdoor, Inc. d/b/a Clear Channel Airports ("Clear Channel") owed the Port \$153,069 consisting of \$102,087 of unpaid percentage fees, plus \$50,982 of associated delinquency charges, related to under-reporting in Calendar Year 2013, and Clear Channel disputes the audit findings (the "Dispute"); and

WHEREAS, the parties desire to settle the Dispute to avoid the expense and uncertainty of litigation; now therefore, be it:

RESOLVED, that the Board of Port Commissioners ("Board") hereby approves and authorizes the Executive Director to execute for and on behalf of the Board a Settlement Agreement with Clear Channel, whereby, among other matters, Clear Channel will pay the Port \$50,000 on or before February 1, 2018; and be it

FURTHER RESOLVED, that 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 Board. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 the other contracting parties, there shall be no valid or effective agreement; and be it

FURTHER RESOLVED, that this resolution shall become effective immediately upon adoption by the Board.

At the regular meeting held on October 12, 2017

Passed by the following vote:

Ayes: Commissioners Butner, Cluver, Colbruno, Hamlin, Martinez, Yee and
President Story – 7

Noes: 0

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 17-105

**RESOLUTION APPROVING AND AUTHORIZING SETTLEMENT IN
THE MATTER INVOLVING THE PORT OF OAKLAND'S APPEALS TO
CALPERS' DETERMINATIONS REGARDING THE DENIAL OF MERIT
PAY.**

RESOLVED, that the Board of Port Commissioners ("Board") hereby approves and authorizes settlement in the matter involving the Port of Oakland's appeals to CalPERS' determinations regarding the denial of Merit Pay and authorizing the Executive Director and the Port Attorney to execute the "Agreement to Withdraw Appeals to CalPERS' Determination Regarding Denial of Merit Pay"; and be it

FURTHER RESOLVED, that 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 Board. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 the other contracting parties, there shall be no valid or effective agreement.

At the regular meeting held on October 12, 2017

Passed by the following vote:

Ayes: Commissioners Butner, Cluver, Colbruno, Hamlin, Martinez,
Yee and
President Story – 7
Noes: 0

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 17-106

RESOLUTION APPROVING AND AUTHORIZING CONSTRUCTION PROJECT BUDGET OF \$499,000 FOR THE SERVICE ANIMAL RELIEF AREA PROJECT AT OAKLAND INTERNATIONAL AIRPORT; AUTHORIZING THE DIRECTOR OF ENGINEERING TO APPROVE THE PROJECT MANUAL AND PLANS FOR THE SERVICE ANIMAL RELIEF AREA PROJECT AT OAKLAND INTERNATIONAL AIRPORT; AND AUTHORIZING THE EXECUTIVE DIRECTOR TO AWARD A CONTRACT TO BAY CONSTRUCTION, INC. IN THE TOTAL AMOUNT OF \$310,000.

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report Item 2.1 dated October 12, 2017 ("Agenda Report") and related agenda materials, 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 related agenda materials and in testimony received:

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

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

A. It is in the best interest of the Port to approve and authorize construction project budget for the **Service Animal Relief Area Project at Oakland International Airport** ("Service Animal Relief Project") in an amount not to exceed \$499,000.

B. It is in the best interest of the Port to authorize the project for the **Service Animal Relief Project**.

C. The development and use provided for in the project manual and the subsequent use of the development approved by this resolution are in conformity with the General Plan of the City.

D. Pursuant to the Port Purchasing Ordinance, it is in the best interest of the Port to delegate to the Executive Director the authority to finally resolve all bid protests in connection with this project.

SECTION 2. The Board hereby approves the following:

A. Authorizing construction project budget for the **Service Animal Relief Project** in an amount not to exceed \$499,000.

B. Delegation of authority to the Director of Engineering to approve the Plans and Project Manual for the **Service Animal Relief Project**.

C. Award of a contract for construction of the **Service Animal Relief Project** to Bay Construction, Inc., the lowest responsible responsive bidder, in a total aggregate amount of \$310,000.

D. Rejection of all other bids received for the **Service Animal Relief Project** and direction that securities accompanying said bids shall be returned to the respective bidders.

SECTION 3. The Board hereby authorizes the Executive Director to:

A. Finally resolve bid protests in connection with this project pursuant to the Port Purchasing Ordinance.

B. Award of a contract for construction of the **Service Animal Relief Project** to Bay Construction, Inc., the lowest responsible responsive bidder, in a total aggregate amount of \$310,000.

SECTION 4. The Board further finds that:

A. The Director of Engineering or his designee is authorized to approve the project manual and plans for the **Service Animal Relief Project** in advance of construction, pursuant to Government Code Section 830.6.

B. A bond for the faithful performance of the work, and a bond to guarantee the payment of all claims for labor and materials furnished and for amounts due under the Unemployment Insurance Code, each in the amount of one hundred percent (100%) of the contract price shall be provided by the Contractor as prescribed by applicable laws and regulations and the contract specifications.

C. The procedure prescribed by applicable laws, regulations and the contract specifications shall be taken for the executed of said contract.

SECTION 5. The proposed actions to approve additional project budget, approve the plans and project manual and award the construction contract were reviewed in accordance with the California Environmental Quality Act ("CEQA") and CEQA Guidelines. These actions has been determined to be categorically exempt from requirements of the California Environmental Quality Act ("CEQA") Guidelines pursuant to Section 15301, Existing Facilities, which exempts the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. No changes to the premises or use are proposed beyond a minor alteration within Terminal 2 to add the service animal relief area.

At the regular meeting held on October 12, 2017

Passed by the following vote:

Ayes: Commissioners Butner, Cluver, Colbruno, Hamlin, Martinez, Yee and President Story – 7

Noes: 0

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 17-107

**RESOLUTION APPROVING AND AUTHORIZING CAPITAL PROJECT
BUDGET IN THE AMOUNT NOT TO EXCEED \$194,000 FOR DESIGN
OF SECURITY EXIT IMPROVEMENTS AT TERMINAL 2 AT OAKLAND
INTERNATIONAL AIRPORT.**

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report Item 6.2 dated October 12, 2017 ("Agenda Report") and related agenda materials, 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 related agenda materials and in testimony received;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

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

A. The action to approve design budget authorization is categorically exempt from the requirements of the California Environmental Quality Act ("CEQA") and the Port CEQA Guidelines pursuant to Section 15301, Existing Facilities, which exempts the operation, repair, maintenance, or minor alteration of existing structures. This action is exempt as only minor alterations are being designed for the premises and there are no proposed changes to the use as part of the security area design.

B. It is in the best interest of the Port to approve and authorize a capital budget authorization of \$194,000 for the design of security exit improvements at Terminal 2 near the bag claim exit at Oakland International Airport.

SECTION 2. The Board hereby approves the following:

A. Approving and authorizing a capital budget authorization of \$194,000 for the design of security exit improvements at Terminal 2 near the bag claim exit at Oakland International Airport.

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 Board. 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 other contracting party, there shall be no valid or effective agreement(s).

At the regular meeting held on October 12, 2017

Passed by the following vote:

Ayes: Commissioners Cluver, Colbruno, Hamlin, Martinez, Yee and President Butner – 6

Excused: President Story – 1

Noes: 0