

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 18-120**

**RESOLUTION APPROVING AND AUTHORIZING SETTLEMENT IN  
THE WORKERS' COMPENSATION APPEALS BOARD MATTERS,  
CASE NOS. ADJ7816458 AND ADJ7816476, PORT EMPLOYEE  
NO. 315259 v PORT OF OAKLAND.**

**RESOLVED**, that the Board of Port Commissioners ("Board") hereby approves and authorizes settlement in the Workers' Compensation Appeals Board matters, Case Nos. ADJ7816458 and ADJ7816476, Port Employee No. 315259 v. Port of Oakland, for a total settlement amount of \$100,000 and for the terms and conditions as set forth in the Compromise and Release filed with and approved by the State of California Workers' Compensation Appeals Board; 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 by way of a Compromise and Release 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 December 13, 2018

Passed by the following vote:

Ayes: Commissioners Story, Martinez, Leslie, Lee, Colbruno, Cluver and President Butner – 7

Noes: 0

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**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 18-121**

**RESOLUTION PROVIDING FOR THE PAYMENT TO THE CITY OF OAKLAND ("CITY") FOR GENERAL SERVICES PROVIDED TO THE PORT OF OAKLAND ("PORT") IN FISCAL YEAR 2017-2018 AND FOR THE REIMBURSEMENT OF CERTAIN CITY EXPENDITURES FOR LAKE MERRITT TIDELAND TRUST PURPOSES IN FISCAL YEAR 2017-2018, AND MAKING CERTAIN DETERMINATIONS IN CONNECTION THEREWITH.**

**WHEREAS**, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report Item 4.1, dated December 13, 2018, ("Agenda Report") and related materials, has received the expert testimony of Port of Oakland ("Port") staff, and has provided opportunities for and taken public comment; now, therefore, be it

**RESOLVED**, that the Board, subject to the terms and conditions hereinafter described, hereby authorizes the transfer, from the Port Revenue Fund to the General Fund of the City, of a total amount not greater than \$2,464,359, said transfer to be made from any funds available in the Port Revenue Fund in accordance with the Ninth purpose of Section 717(3) of the Charter of the City, subject and subordinate to all payments required by the First, Second, Third, Fourth, Fifth, Sixth, Seventh and Eighth purposes of Section 717(3) of the Charter of the City; and be it

**FURTHER RESOLVED**, that the Board does hereby determine that moneys, sufficient to make the \$2,464,359 maximum transfer hereinabove specified, exist in said Port Revenue Fund which are not needed for any of the First through Eighth purposes of said Section 717(3) of said Charter; and be it

**FURTHER RESOLVED**, that the General Services payments and Lake Merritt reimbursements are conditioned upon and subject to the terms and conditions contained in the Memorandum of Understanding effective July 1, 1983 between the Board and the City of Oakland, acting by and through its City Council, as amended by the Eleventh Supplemental Agreement (General Services) effective July 1, 1993 and as amended by the Twelfth Supplemental Agreement (Lake Merritt Tidelands) effective July 1, 1993; and be it

**FURTHER RESOLVED**, that the action taken by this resolution does not constitute a commitment by the Board with respect to any other determination of moneys being available for the Ninth purpose of Section 717(3) of the Charter of the City; and be it

**FURTHER RESOLVED**, that in acting upon the matters contained herein, 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 materials and in testimony received.

At the regular meeting held on December 13, 2018

Passed by the following vote:

Ayes: Commissioners Story, Martinez, Leslie, Lee, Colbruno, Cluver and  
President Butner – 7

Noes: 0



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 18-122**

**RESOLUTION APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A TWELVE-MONTH EXTENSION OF THE AIRPORT SHUTTLE BUS FLEET MAINTENANCE SERVICES AGREEMENT WITH KELLY'S TRUCK REPAIR THROUGH DECEMBER 31, 2019, FOR AN AMOUNT NOT TO EXCEED \$237,180.**

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**WHEREAS**, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report Item No. 6.2, dated December 13, 2018 ("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**, on June 13, 2013, pursuant to Resolution No. 13-62, the Board authorized execution of an agreement with Kelly's Truck Repair ("Kelly's") for a total amount not to exceed \$2,250,000 for Airport shuttle bus fleet maintenance for a five-year period beginning July 1, 2013, and ending June 30, 2018 ("Agreement"); and

**WHEREAS**, on May 24, 2018, pursuant to Resolution No. 18-38, the Board approved an amendment to the Agreement with Kelly's to extend the Agreement by six months to December 31, 2018; and

**WHEREAS**, Port staff posted and advertised a Request for Proposals for Airport Shuttle Bus Fleet Maintenance on March 30, 2018, and received only one proposal by the proposal deadline of April 27, 2018; and

**WHEREAS**, Port staff were unable to agree to the terms of an agreement with the one proposer; and

**WHEREAS**, Port staff will be reissuing the Request for Proposal after soliciting feedback from vendors who had attended the pre-proposal meeting; 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.** The Board hereby:

A. Approves an amendment to the Agreement with Kelly's to extend the Agreement by twelve months to December 31, 2019, with an increase in the contract amount by \$237,180, and as further described in the Agenda Report.

B. Authorizes the Executive Director to (i) execute such amendment described herein and in the Agenda Report, 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 amendment or to correct errors, subject to the limitations set forth herein and 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.

**SECTION 2.** 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. 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on December 13, 2018

Passed by the following vote:

Ayes: Commissioners Story, Martinez, Leslie, Lee, Colbruno, Cluver and  
President Butner – 7

Noes: 0

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 18-123**

**RESOLUTION (1) APPROVING PROJECT DESIGN BUDGET OF \$520,000 AND (2) AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A CONTRACT CHANGE ORDER WITH TURNER CONSTRUCTION COMPANY FOR CONSTRUCTION MANAGER AT RISK PRE-CONSTRUCTION SERVICES CONTRACT IN AN AMOUNT NOT TO EXCEED \$350,000 FOR THE TERMINAL 2 BOILER REPLACEMENT PROJECT AT OAKLAND INTERNATIONAL AIRPORT.**

**WHEREAS**, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report Item 6.3 dated December 13, 2018 ("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**, on or about February 11, 2016, the Board authorized the Executive Director of the Port ("Executive Director") to enter into a contract with Turner Construction Company, Inc. ("Turner") for construction manager at risk services for upgrades to the International Arrivals Building at Oakland International Airport ("IAB CMR Contract"); 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 hereby finds and determines that:

B. It is in the best interest of the Port to authorize and approve project design budget in the amount of \$520,000 for the **Terminal 2 Boiler Replacement Project ("Terminal Boiler Project")**.

C. The proposed actions to approve project budget and authorize a contract change order for construction were reviewed in accordance with the requirements of the California Environmental Quality Act



("CEQA"), and the Port CEQA Guidelines. The general rule in Section 15061(b)(3) of the CEQA Guidelines states that CEQA applies only to activities that have a potential for causing a significant effect on the environment. It can be seen with certainty that there is not possibility that approving the proposed actions will result in a physical change in the environment, and therefore is not subject to CEQA.

**SECTION 2.** The Board hereby:

A. Approves the project design budget in the amount of \$520,000 for the Terminal Boiler Project.

B. Authorizes the Executive Director to execute a contract change order with Turner for the IAB CMR Contract in an amount not to exceed \$350,000 for the Terminal Boiler Project.

**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 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.

At the regular meeting held on December 13, 2018


Passed by the following vote:

Ayes: Commissioners Story, Martinez, Leslie, Lee, Colbruno, Cluver and President Butner – 7

Noes: 0

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

12/13/2018  
Item No.: 6.5  
DSC/ms



**RESOLUTION NO. 18-124**

**RESOLUTION EXTENDING THE APPOINTMENT OF DANNY WAN  
AS THE ACTING EXECUTIVE DIRECTOR THROUGH FEBRUARY  
28, 2019, OR UPON RETURN OF THE EXECUTIVE DIRECTOR,  
WHICHEVER IS EARLIER, AND APPROVING TEMPORARY  
SUPPLEMENTAL COMPENSATION OF SIX PERCENT FOR THE  
DURATION OF THE APPOINTMENT.**

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**WHEREAS**, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report for Item 6.5 dated December 13, 2018 ("Agenda Report") and related materials, has received the expert testimony of Port of Oakland ("Port") Staff, and has provided opportunities for and taken public comment; now, therefore, be it

**RESOLVED**, that the Board hereby approves the extension of the appointment of Danny Wan as the Acting Executive Director through February 28, 2019, or upon return of the Executive Director, whichever is earlier; and be it

**FURTHER RESOLVED**, that the Board also approves the provision of temporary supplemental compensation of six percent to the Acting Executive Director for the duration of the temporary appointment; and be it

**FURTHER RESOLVED**, that in acting upon the matters contained herein, 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 materials and in testimony received.

At the regular meeting held on December 13, 2018

Passed by the following vote:

Ayes: Commissioners Story, Martinez, Leslie, Lee, Colbruno, Cluver and  
President Butner – 7

Noes: 0



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 18-125**

**RESOLUTION EXTENDING THE APPOINTMENT OF MICHELE HEFFES AS THE ACTING PORT ATTORNEY THROUGH FEBRUARY 28, 2019, OR UPON RETURN OF THE PORT ATTORNEY, WHICHEVER IS EARLIER, AND APPROVING TEMPORARY SUPPLEMENTAL COMPENSATION OF SIX PERCENT FOR THE DURATION OF THE APPOINTMENT.**

**WHEREAS**, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report for Item 6.6 dated December 13, 2018 ("Agenda Report") and related materials, has received the expert testimony of Port of Oakland ("Port") Staff, and has provided opportunities for and taken public comment; now, therefore, be it

**RESOLVED**, that the Board hereby approves the extension of the appointment of Michele Heffes as the Acting Port Attorney through February 28, 2019, or upon return of the Port Attorney, whichever is earlier; and be it

**FURTHER RESOLVED**, that the Board also approves the provision of temporary supplemental compensation of six percent to the Acting Port Attorney for the duration of the temporary appointment; and be it

**FURTHER RESOLVED**, that in acting upon the matters contained herein, 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 materials and in testimony received.

At the regular meeting held on December 13, 2018

Passed by the following vote:

Ayes: Commissioners Story, Martinez, Leslie, Lee, Colbruno, Cluver and President Butner – 7

Noes: 0