

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 18-95

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION
OF A SETTLEMENT AGREEMENT AND PARTIAL RELEASE
WITH RESPECT TO THE FORMER MOBIL OIL SITE AT
BERTHS 23/24 WITH ZURICH AMERICAN INSURANCE
COMPANY IN THE AMOUNT OF \$91,000 COVERING CERTAIN
ENVIRONMENTAL COSTS INCURRED FROM JULY 1, 2016,
THROUGH JUNE 30, 2017.**

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 and Partial Release With Respect to The Former Mobil Oil Site at Berths 23/24 with **ZURICH AMERICAN INSURANCE COMPANY ("ZURICH")**, whereby, among other matters, **ZURICH** will pay the Port of Oakland ("Port") \$91,000 covering certain environmental costs incurred from July 1, 2016, through June 30, 2017; 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 September 13, 2018

Passed by the following vote:

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

Noes: 0

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 18-96

RESOLUTION APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE AN ASSIGNMENT OF AN EXISTING GROUND LEASE AND RELATED AGREEMENTS FROM 10 CLAY STREET, LLC TO OAKLAND CLAY PARTNERS, LLC FOR PROPERTY LOCATED AT 10 CLAY STREET, OAKLAND.

WHEREAS, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the Agenda Report for Agenda Item 2.3, dated September 13, 2018 (the "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, 10 Clay Street, LLC ("Lessee") currently: is the lessee for property located at 10 Clay Street, Oakland ("Property") under a ground lease ("Ground Lease"); possesses interest in the Operating Agreement and Agreement for the Acquisition of Ground Lease Interests that pertain to the Property; and is party to the Property Rental Agreement related to two parking spaces located on Clay Street; and

WHEREAS, on July 13, 2018, Lessee submitted a request for Port approval to assign their interests in the Ground Lease and related agreements to Oakland Clay Partners, LLC, an affiliate of the Oakland Athletics; and

WHEREAS, on July 18, 2018, the Port provided notice of the proposed assignment to the State Lands Commission, as required by the 2005 Stipulated Judgment for the Jack London Square Project, and on July 26, 2018, the State Lands Commission indicated in writing that it does not object to the proposed assignment; and

WHEREAS, Section 706 of the City Charter gives to the Board the complete and exclusive power and duty for and on behalf of the City to make provisions for the needs of commerce, shipping, and navigation of the Port and to promote the development, construction, and operation of all waterfront properties, including piers, wharves, sea walls, docks, and other improvements; and

WHEREAS, the proposed action is consistent with the Port's duty to use and manage Port property in trust for the State of California (the "Tidelands Trust"), and the continued private use of Port property pursuant to the Ground Lease and related property agreements will not interfere with the Tidelands Trust; 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 finds and determines as follows:

A. Oakland Clay Partners, LLC has the financial wherewithal and operational experience to meet the requirements for approval of an assignment of the Ground Lease and related property agreements, and the proposed assignment does not violate an existing policy adopted by the Board; and

B. The proposed assignment is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15301, 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. Approval of the proposed action falls within this class of exemptions. No additional environmental review is required to take the action recommended in the Agenda Report.

Section 2. The Board hereby:

A. Approves the assignment of the Ground Lease and related property agreements to **Oakland Clay Partners, LLC**, as further described in the Agenda Report; and

B. Authorizes the Executive Director to execute any documents or agreements necessary to effectuate the proposed transactions, subject to approval as to form and legality by the Port Attorney. Furthermore, if the subject assignment is not fully effective within sixty (60) days after Board approval, the approval shall be null and void, unless extended at the sole and absolute discretion of the Executive Director or his designee.

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.

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

At the regular meeting held on September 13, 2018

Passed by the following vote:

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

Noes: 0

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 18-97

RESOLUTION AUTHORIZING AND APPROVING AN INCREASE OF \$35,000 TO THE MAXIMUM NOT TO EXCEED CONTRACT AUTHORITY LIMIT FOR THE CONTRACT WITH OLIVER DESILVA INC., DOING BUSINESS AS GALLAGHER & BURK, INC. FOR THE HOWARD TERMINAL PAVEMENT REPAIR PROJECT.

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report Item 2.4 dated September 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 April 12, 2018, by Resolution No. 18-28, the Board authorized the Executive Director to enter into a contract for the **Howard Terminal Pavement Repair Project** with **Oliver DeSilva, Inc., doing business as Gallagher & Burk, Inc., ("Gallagher & Burk")**, in the amount of \$557,965; 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 authorize an increase to the maximum not to exceed contract authority limit for the **Howard Terminal Pavement Repair Project** of \$35,000 for a total maximum contract authority limit not to exceed \$592,965;

B. It is in the best interest of the Port to authorize the Executive Director to negotiate and execute additive change orders with **Gallagher & Burk**, under the contract for the **Howard Terminal Pavement Repair Project** in a total amount not to exceed \$35,000.

C. The proposed contract authorization was reviewed in accordance with the requirements of the California Environmental Quality

Act ("CEQA"), and the Port CEQA Guidelines, specifically Section 15061(b)(3). Since it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

SECTION 2. The Board hereby approves an increase to the maximum not to exceed contract authority limit of \$35,000 for a total maximum contract authority not to exceed \$592,965 with **Gallagher and Burk** for the **Howard Terminal Pavement Repair Project**.

SECTION 3. The Board hereby authorizes the Executive Director to negotiate and execute additive change orders with **Gallagher & Burk** for the **Howard Terminal Pavement Repair Project**, in a total aggregate amount not to exceed \$35,000.

SECTION 5. 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 September 13, 2018

Passed by the following vote:

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

Noes: 0

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**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 18-98

**RESOLUTION APPROVING THE EXTENSION OF THE
APPOINTMENT OF KATHERINE BUCKLEY AS THE
ACTING CHIEF AUDIT OFFICER THROUGH DECEMBER
31, 2018, OR UPON APPOINTMENT OF A
SUCCESSOR, WHICHEVER IS EARLIER, AND
APPROVING TEMPORARY SUPPLEMENTAL
COMPENSATION OF SIX PERCENT.**

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report for Item 2.5 dated September 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 Katherine Buckley as the Acting Chief Audit Officer through December 31, 2018, or upon appointment of a successor, whichever is earlier; and be it

RESOLVED, that the Board also approves the provision of temporary supplemental compensation of six percent (6%) to the Acting Chief Audit Officer for performing all of the functions of the Chief Audit Officer during her 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 September 13, 2018

Passed by the following vote:

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

Noes: 0

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 18-99

**RESOLUTION APPROVING AND AUTHORIZING ADDITIONAL CAPITAL
PROJECT BUDGET IN THE AMOUNT NOT TO EXCEED \$123,000 FOR
THE 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 September 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, the Board previously authorized a total budget of \$194,000 for the design of **Security Exit Improvements at Terminal 2 Near the Bag Claim Exit Project at Oakland International Airport** ("Security Exit Project"); 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 additional capital budget authorization of \$123,000 for the design of the **Security Exit Project**.

B. The proposed capital budget authorization was reviewed in accordance with the requirements of the California Environmental Quality Act ("CEQA"), and the Port CEQA Guidelines. This project is categorically exempt from CEQA pursuant to Section 15301, which exempts from CEQA 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. Only minor alterations to the premises

and no changes to the use are proposed as part of the security area redesign. The proposed action meets these criteria and therefore no further environmental review is required.

SECTION 2. The Board hereby approves and authorizes an increase in the capital budget authorization for the design of the **Security Exit Project** of \$123,000, for a total capital project budget of \$317,000.

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 September 13, 2018

Passed by the following vote:

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

Noes: 0

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BOARD OF PORT COMMISSIONERS CITY OF OAKLAND

RESOLUTION NO. 18-100

RESOLUTION FINDING AND DETERMINING THAT THE PORT OF OAKLAND'S ELECTRICAL LINES AND EQUIPMENT DO NOT CREATE A SIGNIFICANT RISK OF CATASTROPHIC WILDFIRE.

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated Agenda Report Item 6.3 dated September 13, 2018, 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, 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. Section 8387 of the California Public Utilities Code requires each local publicly owned electric utility to determine whether its overhead electrical lines and equipment create a significant risk of catastrophic wildfire. If the local publicly owned electric utility finds that its electrical lines and equipment do create a significant risk of catastrophic wildfire, the local publicly owned utility must approve wildfire mitigation measures that would minimize such risk of catastrophic wildfire.

Section 2. The Port of Oakland ("Port") is a local publicly owned electric utility that owns and operates its own overhead electrical lines and equipment, all of which are located on Port property. All of the Port's property is located in the low, flatlands of the City of Oakland in an urban area that is virtually entirely developed for various industrial purposes (including the Airport and the Seaport areas) with very little trees or other combustible vegetation.

Section 3. The Port's property is not within a high fire hazard area, as designated in either the City of Oakland's Fire Department's

High Fire Severity Zone Map or the California Public Utility Commission's ("CPUC") Fire-Threat Map (both as shown in the Agenda Report). Staff reviewed the historic record of wildfires on Port property and found no historical evidence of wildfires on Port property. Staff also consulted with the Oakland Fire Department, and the Oakland Fire Department concurs that the Port's overhead electrical lines and equipment are not located within a high fire hazard area.

Section 4. The Board hereby finds and determines as follows:

- a. The proposed determination that the Port does not operate any electrical lines or equipment in a high fire hazard area was reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA). 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 no possibility that the proposed action will result in a physical change in the environment, and therefore it is not subject to CEQA and no further environmental review is required;
- b. The Port's overhead electrical lines and equipment do not constitute a significant risk of creating a catastrophic wildfire because the Port's overhead electrical lines and equipment are (i) not located within a high fire hazard area, (ii) the Port's property consists of largely developed and paved areas with very few trees and other combustible vegetation, and (iii) the Port's property is not located within a high fire hazard area as designated by either the Oakland Fire Department or the CPUC; and
- c. The Board is therefore not required to approve any mitigation measures to minimize the risk of its overhead electrical lines and equipment causing a catastrophic wildfire.

At the regular meeting held on September 13, 2018

Passed by the following vote:

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

Noes: 0

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**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 18-101

**RESOLUTION APPROVING AND AUTHORIZING THE
EXECUTIVE DIRECTOR OR HIS DESIGNEE TO
SUBMIT TO THE CALIFORNIA ENERGY COMMISSION
AN ATTESTATION OF THE VERACITY OF THE PORT
OF OAKLAND'S POWER SOURCE DISCLOSURE
REPORT.**

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated Agenda Report Item 6.4 dated September 13, 2018, 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, 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 finds and declares the following:

- a. Section 398.5 of the California Public Utilities Code requires retail suppliers in the State of California to annually report to the California Energy Commission, among other things, the sources of energy or electricity products offered to such retail suppliers' end-use customers. The Port of Oakland ("Port") is a retail supplier within the meaning of Section 398.5.
- b. Section 1394(b)(1), Article 5, Title 20 of the California Code of Regulations requires that retail providers prepare the annual report pursuant to certain specified procedures, but Section 1394(b)(2) of such Regulations allows retail providers that are public agencies to satisfy the procedural requirements for the preparation of the annual report by approving at a public meeting the submission to the California Energy Commission of an attestation of the veracity of the annual report.

- c. Port staff have prepared the Port's Power Source Disclosure Report (the "Report") and submitted the Report to the California Energy Commission in June 2018.
- d. The submittal of an attestation of the veracity of the Report to the California Energy Commission was 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 no possibility that the proposed action will result in a physical change in the environment, and therefore it is not subject to CEQA and no further environmental review is required.

Section 2. The Board hereby authorizes the Executive Director or his designee to submit to the California Energy Commission an attestation of the veracity of the Port's Power Source Disclosure Report pursuant to Section 1394(b)(2) described above.

At the regular meeting held on September 13, 2018

Passed by the following vote:

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

Noes: 0

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**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 18-102

**RESOLUTION RATIFYING AND APPROVING MEMORANDUM OF
UNDERSTANDING WITH THE INTERNATIONAL FEDERATION OF
PROFESSIONAL AND TECHNICAL ENGINEERS, LOCAL 21 FOR
A TERM COMMENCING JANUARY 1, 2018 THROUGH JUNE 30,
2022.**

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report for Item 6.5 dated September 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 terms and conditions of employment and certain benefits as set forth in the Memorandum of Understanding ("MOU") between the International Federation of Professional and Technical Engineers, Local 21 ("IFPTE Local 21") and the Port, for a term commencing January 1, 2018 through June 30, 2022, to be effective on and retroactive to January 1, 2018, as more fully described in the Agenda Report, are hereby ratified and approved; and be it

FURTHER RESOLVED, that the Executive Director is hereby authorized to execute said Memorandum of Understanding for and on behalf of this Board, provided, however, the same shall be approved as to form and legality by the Port Attorney; 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 September 13, 2018

Passed by the following vote:

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

Noes: 0