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**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 19-119**

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF  
A SETTLEMENT AGREEMENT AND MUTUAL RELEASE WITH URS  
CORPORATION, FUGRO USA LAND, INC., AND YEI  
ENGINEERS, INC. FOR CLAIMS ARISING FROM THE DESIGN  
OF IMPROVEMENTS AT BERTHS 30 THROUGH 33 IN THE  
SEAPORT IN THE AMOUNT OF \$3,500,000.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Executive Director of the Port of Oakland ("Executive Director") to execute for and on behalf of the Board a Settlement Agreement and Mutual Release with URS Corporation, a Nevada Corporation ("URS"), Fugro USA Land, Inc. ("Fugro"), and YEI Engineers, Inc. ("YEI"), whereby URS, Fugro and YEI will pay the Port of Oakland \$3,500,000 for claims arising from design of improvements at Berths 30 through 32 in the Seaport; 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 December 12, 2019

Passed by the following vote:

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

Noes: – 0

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**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 19-120**

RESOLUTION APPROVING CONSENT TO CHANGE IN CONTROL IN OWNERSHIP AND ASSIGNMENT OF A SPACE/USE PERMIT TO PROVIDE AIRLINE GROUND SERVICES AND LETTER AGREEMENT TO SPACE/USE PERMIT AT OAKLAND INTERNATIONAL AIRPORT FROM THE CURRENT OWNERS OF G2 SECURE STAFF, LLC TO TENEX CAPITAL PARTNERS II, LP.

**WHEREAS**, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report Item No. 2.1, dated December 12, 2019 ("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; and

**WHEREAS**, on May 23, 2013, the Board approved a Space/Use Permit with G2 Secure Staff, LLC ("G2") to provide airline ground services at Oakland International Airport, and on June 28, 2018, the Board extended the Space/Use Permit through June 30, 2023 under a Letter Agreement to Space/Use Permit (collectively, the "SUP");

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

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

A. Consents to the change in control of G2 and assignment of the SUP from the current owners of G2 to Tenex Capital Partners II, LP; and

B. Authorizes the Executive Director to execute the appropriate documentation to consent to the change in control and assignment, subject to approval as to form and legality by the Port Attorney.

**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 Port. 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 12, 2019

Passed by the following vote:

Ayes: Commissioners Cluver, Colbruno, Lee, Leslie, Martinez, Story and

President Butner – 7

Noes: – 0



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 19-121**

RESOLUTION RATIFYING, CONFIRMING, AND APPROVING THE APPOINTMENT OF DANNY W. WAN AS EXECUTIVE DIRECTOR EFFECTIVE NOVEMBER 14, 2019, AND MR. WAN'S EMPLOYMENT AGREEMENT, AND APPROVING AND AUTHORIZING EXECUTION OF THE MODIFICATION OF THE EMPLOYMENT AGREEMENT CONSISTENT WITH THE TERMS DESCRIBED IN THE AGENDA REPORT AND SUBJECT TO THE PORT ATTORNEY'S APPROVAL AS TO FORM AND LEGALITY.

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report for Item 2.3 dated December 12, 2019 ("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;

WHEREAS, the Board, by Resolution No. 19-112, appointed Danny W. Wan as the Executive Director and authorized the execution of an Employment Agreement ("Agreement") with Mr. Wan setting forth the terms and conditions of his employment;

WHEREAS, the Board and Mr. Wan desire to modify the Agreement and its provisions for base salary increases; now, therefore, be it

RESOLVED, that the Board hereby ratifies, confirms, and approves the appointment of Mr. Wan as Executive Director effective November 14, 2019, and Mr. Wan's Employment Agreement, and approves and authorizes execution of the Modification to Mr. Wan's Employment Agreement ("Modification") which eliminates the 3% base salary increases effective the first pay period containing January 1, 2020; January 1, 2021; and, January 1, 2021 and instead provides for 3% base salary increases effective the pay period containing November 14, 2020 and the pay period containing November 14, 2021; and be it

**FURTHER RESOLVED**, that the Board hereby approves and authorizes the Board President to execute the Modification consistent with the terms described in the Agenda Report and subject to the Port Attorney's approval as to form and legality; and be it

**FURTHER RESOLVED**, that in acting upon the matters contained herein, the Board has exercised its independent judgment based upon 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 12, 2019

Passed by the following vote:

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

Noes: – 0

EP MH

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 19-122**

**RESOLUTION APPROVING BUILDING PERMIT  
REQUESTED BY ALAMEDA COUNTY TRANSPORTATION  
COMMISSION.**

**WHEREAS**, the Board of Port Commissioners ("Board") has reviewed and evaluated Item No. 2.4 - the Summary Sheet for Permit Application (Port Permit No. 5263) dated November 25, 2019 - and related agenda materials ("Agenda Sheet"), 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 Sheet and in related agenda materials and in testimony received;

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

**SECTION 1.** In reliance upon the representations and certifications set forth upon and submitted with an application by the Applicant (defined below) for a building permit to perform certain work at the Premises (defined below), and provided that the Applicant complies with all of the terms and conditions set forth in Applicant's agreement(s) with the Port and all other documents regulating use of the Premises, the Board hereby approves the building permit for the following work:

- A. Applicant: **Alameda County Transportation Commission (Alameda CTC).**
- B. Premises: 651 Maritime Street, Oakland, California, and throughout the Seaport area.
- C. Estimated Cost: \$15,000,000.00.



D. Work: Install intelligent transportation system elements around the Port, including elements outside the Port's jurisdiction. Elements include Radio Frequency Identification Device (RFID) reader installation, new fiber optic cable installation, adaptive signal system improvements, Advanced Traffic Management System upgrades, Advanced Train Detection System installation, Center to Center communications interface installation, Changeable Message Sign construction, CCTV upgrades to high definition, queue detection equipment installation, Supplemental Vehicle Detection equipment installation, Wi-Fi network installation, and Weigh-in-Motion technology construction.

E. Sustainability: There are no sustainability measures being considered for this project beyond the scope of work.

**SECTION 2.** The Board hereby finds and determines that the work to be performed under this building permit is categorically exempt from the requirements of the California Environmental Quality Act ("CEQA") and the CEQA Guidelines under Section 15303, Class 3, which exempts the construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.

**SECTION 3.** (a) Neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to Applicant under any agreement between the Port and the Applicant or with respect to any obligation of Applicant, or (ii) releases Applicant from any obligation with respect to said work or with respect to any agreement between the Port and Applicant; and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Port.

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

At the regular meeting held on December 12, 2019

Passed by the following vote:

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

Noes: – 0

EP MK

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 19-123**

**RESOLUTION APPROVING BUILDING PERMIT  
REQUESTED BY TRAPAC, LLC.**

**WHEREAS**, the Board of Port Commissioners ("Board") has reviewed and evaluated Item No. 2.5 - the Summary Sheet for Permit Application (Port Permit No. 5258) dated November 25, 2019 - and related agenda materials ("Agenda Sheet"), 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 Sheet and in related agenda materials and in testimony received;

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

**SECTION 1.** In reliance upon the representations and certifications set forth upon and submitted with an application by the Applicant (defined below) for a building permit to perform certain work at the Premises (defined below), and provided that the Applicant complies with all of the terms and conditions set forth in Applicant's agreement(s) with the Port and all other documents regulating use of the Premises, the Board hereby approves the building permit for the following work:

- A. Applicant: **TraPac, LLC.**
- B. Premises: 2800 7<sup>th</sup> Street, Berths 24-33, Oakland, California.
- C. Estimated Cost: \$15,000.00.
- D. Work: Improvements to the exit gate on 7<sup>th</sup> Street. The work will include three camera poles (approximately 8 feet tall) and two bollards at each location. The work will also include electrical and data connections to existing services
- E. Sustainability: There are no sustainability measures being considered for this project beyond the scope of work.



**SECTION 2.** The Board hereby finds and determines that the work to be performed under this building permit is categorically exempt from the requirements of the California Environmental Quality Act ("CEQA") and the CEQA Guidelines under Section 15303, Class 3, which exempts the construction and location of limited numbers of new, small facilities or structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure.

**SECTION 3.** (a) Neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to Applicant under any agreement between the Port and the Applicant or with respect to any obligation of Applicant, or (ii) releases Applicant from any obligation with respect to said work or with respect to any agreement between the Port and Applicant; and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Port.

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

At the regular meeting held on December 12, 2019

Passed by the following vote:

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

Noes: – 0

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**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 19-124**

**RESOLUTION APPROVING AND AUTHORIZING A  
PROJECT BUDGET AND SPENDING AUTHORITY OF  
\$500,000 FOR THE AIRPORT PERIMETER DIKE  
IMPROVEMENTS (PHASE 1B) PROJECT AT OAKLAND  
INTERNATIONAL AIRPORT.**

**WHEREAS**, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report Item No. 3.2, dated December 12, 2019 ("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**, in September 12, 2019, the Board authorized the award of a construction contract and increased the total approved project budget for the Airport Perimeter DiKE Improvements Project to \$26.5 million; and

**WHEREAS**, due to the desire of the Port to obtain an Access License Agreement from the City of San Leandro for access to the Airport Perimeter DiKE through the City of San Leandro's Water Pollution Control Plant during construction and for future maintenance of the Airport Perimeter DiKE improvements for \$500,000, the total project budget would need to be increased by \$500,000; 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:

- A. It is in the best interest of the Port to approve and authorize additional project budget of \$500,000 for an Access License Agreement with the City of San Leandro for the Airport Perimeter DiKE Improvements Project; and

- B. The requested action is included in the Final Initial Study/Mitigated Negative Declaration determination under the California Environmental Quality Act ("CEQA"), and no further environmental review is required.

**SECTION 2.** The Board hereby approves and authorizes a project budget and spending authority of \$500,000 for the Access License Agreement with the City of San Leandro for the Airport Perimeter Dike Improvements 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.

At the regular meeting held on December 12, 2019  
Passed by the following vote:

Ayes: Commissioners Cluver, Colbruno, Lee, Leslie, Martinez, Story and  
President Butner – 7  
Noes: – 0



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

12/12/19  
Item No.: 4.2  
MCR/msr



**RESOLUTION NO. 19-125**

**RESOLUTION AUTHORIZING THE RENEWAL OF THE PORT OF OAKLAND'S OWNER CONTROLLED INSURANCE PROGRAM ARRANGED AND PAID THROUGH A PRIME INSURANCE BROKER FOR A THREE (3) YEAR TERM COMMENCING ON FEBRUARY 1, 2020, IN AN AMOUNT NOT TO EXCEED \$5,900,000 PLUS POSTING OF \$38,000 ESCROW AND \$387,166 IN COLLATERAL SUBJECT TO AUDIT ADJUSTMENT.**

**WHEREAS**, the Board of Port Commissioners ("Board") has reviewed and evaluated Agenda Report Item No. 4.2, dated December 12, 2019, (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; now, therefore, be it

**RESOLVED**, 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; and be it

**FURTHER RESOLVED**, that based upon the information contained in the Agenda Report the Board hereby approves and authorizes the renewal of the Port's owner controlled insurance program ("OCIP") for a three-year term commencing on February 1, 2020, with primary insurance carrier Astrus Insurance Solutions, LLC, the managing general underwriter issuing policies on behalf of Federal Insurance Company and Executive Risk Indemnity Incorporated (collectively referred to as "Chubb"), arranged and paid through prime broker Alliant Insurance Services ("Alliant") at an amount not to exceed \$5,900,000 and that may include one or more of the following excess insurance carriers: Allied World Assurance Company, Chubb Indemnity Insurance Company, Axis Insurance Company, Berkshire Insurance Company, Berkley Specialty Insurance Company, Ascot Specialty Insurance Company, SCOR Reinsurance Company, Navigators Insurance Company, Houston Casualty Company (Tokio Marine), Sompo America Insurance Company, Lexington Insurance Company, Liberty Insurance Underwriters Inc., Underwriters at Lloyds of London, Travelers Casualty Company, Allianz Underwriters Insurance Company, Swiss RE International SE, AmTrust International Insurance Ltd, Ategrity Specialty Insurance Company, Everest Indemnity Insurance Company, First Mercury Insurance Company, Great American Casualty Insurance Company, Markel Insurance Company, Nationwide Insurance Company of America, Starr Indemnity and Liability Company, and Westchester Surplus Lines Insurance Company, and any other insurers placed by Alliant; provided however, that said insurances shall be subject to the Port Attorney's review as to form and legality, and as further described in the Agenda Report; and be it

**FURTHER RESOLVED**, that the Board hereby finds and determines that the OCIP described in the Agenda Report is in such amounts and against such risks as are, in the judgment of the Board, prudent and reasonable taking into account, but not being controlled by, the amounts and types of insurance or self-insured programs provided by similar ports; and be it

**FURTHER RESOLVED**, that the Board further authorizes and approves expenditure in an amount not to exceed \$5,900,000 to pay for insurance premiums, administrative services, claims, claims, claims handling fees, safety/loss control services and any audit adjustments; and be it

**FURTHER RESOLVED**, that the Executive Director or his designee is authorized to deposit collateral in the amount not to exceed \$387,166 and escrow in the amount of \$38,000 with Chubb to satisfy the OCIP collateral requirements; and be it

**FURTHER RESOLVED**, that the Risk Manager of the Port ("Port Risk Manager") is hereby authorized to execute any incidental documents necessary to implement the OCIP renewal and related insurance policies, including making any necessary Port payments to the applicable insurance carrier associated with audits for the Port's current OCIP, subject to approval by the Port Attorney as to form and legality; and be it

**FURTHER RESOLVED**, that the Board finds that the renewal of Port insurance policies as described herein was reviewed in accordance with the requirements of the California Environmental Air Quality Act ("CEQA"), and the CEQA Guidelines. CEQA applies only to project that have the potential for causing a significant effect on the environment. Renewing the OCIP for a three-year term will not have a significant effect on the environment and therefore is not a project under CEQA. No further environmental review is required.

At the regular meeting held on December 12, 2019  
Passed by the following vote:

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

Noes: – 0



*[Handwritten initials]*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 19-126**

RESOLUTION: (1) AUTHORIZING CONSTRUCTION PROJECT BUDGET OF \$2,038,000 FOR A TOTAL PROJECT BUDGET OF \$2,578,000; (2) DELEGATING AUTHORITY TO THE DIRECTOR OF ENGINEERING TO APPROVE THE PROJECT MANUAL AND PLANS; (3) AUTHORIZING THE EXECUTIVE DIRECTOR TO ENTER INTO A CONTRACT WITH VALENTINE CORPORATION IN THE AMOUNT OF \$1,263,369; AND (4) AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE CONTRACT CHANGE ORDERS TO THE EXTENT NECESSARY IN THE AMOUNT NOT TO EXCEED \$253,631 ALL CONCERNING THE CONSTRUCTION OF LIFT STATION NO. 2 IMPROVEMENTS AT OAKLAND INTERNATIONAL AIRPORT.

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report Item No. 6.1 dated December 12, 2019 ("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 and determines that:

A. It is in the best interest of the Port to authorize the Construction of Lift Station Number 2 Improvements at Oakland International Airport ("Lift Station 2 Project").

B. It is in the best interest of the Port to authorize and approve construction budget in the amount of \$2,038,000 for the Lift Station 2 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 of Oakland.

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 the **Lift Station 2 Project**.

**SECTION 2.** The Board hereby approves the following concerning the **Lift Station 2 Project**:

A. Authorize construction project budget of \$2,038,000, for a total project budget of \$2,578,000.

B. Delegation of authority to the Director of Engineering to approve the Plans and Project Manual.

C. Award of a contract for construction to Valentine Corporation, the lowest responsible responsive bidder, in a total amount not to exceed \$1,263,369.

D. Rejection of all other bids received and direction that securities accompanying said bids shall be returned to the respective bidders.

**SECTION 3.** The Board hereby authorizes the Executive Director of the Port ("Executive Director") to:

A. Finally resolve bid protests in connection with the **Lift Station 2 Project** pursuant to the Port Purchasing Ordinance.

B. Enter into a contract for construction of the **Lift Station 2 Project** to Valentine Corporation, the lowest responsible responsive bidder, in a total amount not to exceed \$1,263,369.

C. Execute contract change orders to the extent necessary for the **Lift Station 2 Project** in an amount not to exceed \$253,631.

**SECTION 4.** The Board further finds that:

A. The Director of Engineering is authorized to approve the project manual and plans for the **Lift Station 2 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.

**SECTION 5.** The proposed actions were reviewed in accordance with the California Environmental Quality Act ("CEQA") and the CEQA Guidelines. The recommended actions are categorically exempt from CEQA pursuant to Section 15302 of the CEQA Guidelines which exempts the replacement or reconstruction of existing structures and facilities where the new structure will be located on the same site as the structure replaced and will have substantially the same purpose and capacity as the structure replaced, including replacement of existing utility facilities involving negligible or no expansion of capacity.

**SECTION 6.** 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 12, 2019

Passed by the following vote:

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

Noes: – 0

*Ad M/A*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 19-127**

**RESOLUTION APPROVING AND AUTHORIZING THE  
EXECUTIVE DIRECTOR TO ENTER INTO AN  
AGREEMENT WITH WESTERN STATES OIL  
INTERNATIONAL TO PROCURE UNLEADED AND  
RENEWABLE DIESEL FUEL IN AN AMOUNT NOT TO  
EXCEED \$450,000 ANNUALLY AND FOR A TERM  
ENDING NO LATER THAN JUNE 30, 2023.**

**WHEREAS**, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report for Agenda Item No. 6.2, dated December 12, 2019 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**, 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 in testimony received, the Board finds and determines that:

A. The requested action was reviewed in accordance with the requirements of the California Environmental Quality Act ("CEQA") and the CEQA Guidelines. The requested action is categorically exempt from CEQA pursuant to Section 15301, Existing Facilities, of the CEQA Guidelines, which exempts from CEQA the operation of existing structures and facilities that involves negligible or no expansion of existing or former use.

B. The Port's use of the competitive procurement conducted by the City of Oakland ("City") and approved by the City Council in May of 2018 and the resulting cooperative purchasing agreement with **Western States Oil International ("Western Oil")** for unleaded and renewable diesel fuel complies with the Port's Purchasing Ordinance No. 4321.



**Section 2.** The Board hereby approves and authorizes the Executive Director of the Port ("Executive Director") to enter into an agreement with **Western Oil** to procure unleaded and renewable diesel bulk rate fuel base deliveries of up to 1,000 gallons, 1,000-4,000 gallons and over 4,000 gallons for an initial term expiring on June 30, 2021, with an option to extend by the Port for up to two (2) additional one-year periods for a maximum term ending no later than June 30, 2023, and for an annual amount not to exceed \$450,000, as further described in the Agenda Report and provided that all agreements are approved 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 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 12, 2019

Passed by the following vote:

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

Noes: – 0

*MSR* *MA*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 19-128**

**RESOLUTION APPROVING A SECOND SUPPLEMENTAL AGREEMENT WITH EOA, INC TO PROVIDE ON-CALL ENVIRONMENTAL CONSULTING SERVICES FOR STORM WATER COMPLIANCE TO SUPPORT THE PORT OF OAKLAND'S CLEAN WATER PROGRAM TO INCREASE THE CONTRACT AMOUNT BY AN ADDITIONAL \$98,500 AND TO EXTEND THE TERM FOR AN ADDITIONAL ONE (1) YEAR PERIOD THROUGH DECEMBER 31, 2020.**

**WHEREAS**, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report Item 6.3 dated December 12, 2019 ("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**, by Resolution No. 6098, adopted by the Board of Port Commissioners ("Board") on April 18, 2006, the Board authorized execution of an agreement with **EOA, Inc. ("EOA")**, to provide on-call environmental consulting services for storm water program compliance, with a current expiration date of December 31, 2019, and a current maximum contract expenditure limit of \$201,062.83 ("Agreement"); and

**WHEREAS**, it is desirable at this time to extend the term of the Agreement for one (1) year through December 31, 2020, and to increase the maximum expenditure limit by \$98,500 to allow **EOA** to assist the Port with compliance with State Water Board Trash Provisions and other programs; 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 the agreement with **EOA**, as supplemented, will constitute an agreement for obtaining professional, technical, and specialized services that are temporary in nature and that it is in the best interest of the Port to continue to secure such services from **EOA**.

**SECTION 2.** The Board hereby:

A. Approves a Second Supplemental Agreement with **EOA** to provide on-call environmental consulting services for stormwater program compliance to support the Port's Clean Water Program, for an additional period of one (1) year for a total term through December 31, 2020, and for an additional expenditure amount of \$98,500 for a total maximum expenditure limit of \$299,562.83, as further described in the Agenda Report.

B. Authorizes the Executive Director of the Port ("Executive Director") to execute such Second Supplemental Agreement, subject to approval as to form and legality by the Port Attorney.

**SECTION 3.** The proposed actions were reviewed in accordance with the requirements of the California Environmental Quality Act ("CEQA") and the 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 of causing a significant effect on the environment. It can be seen with certainty that there is no possibility that taking the recommended actions will result in a physical change to the environment, and therefore this action is not subject to CEQA and no further environmental review is required. Projects identified for future implementation may be subject to environmental review when they are proposed for implementation.

**SECTION 4.** 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 12, 2019

Passed by the following vote:

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

Noes: – 0



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 19-129**

**RESOLUTION APPROVING AND AUTHORIZING THE  
APPOINTMENT OF MICHELE HEFFES AS PORT  
ATTORNEY EFFECTIVE DECEMBER 12, 2019 AT AN  
ANNUAL SALARY OF \$323,655 PLUS BENEFITS.**

**WHEREAS**, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report for Item 6.4 dated December 12, 2019 ("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; now, therefore, be it

**RESOLVED**, that the Board hereby approves and authorizes the appointment of Michele Heffes as the Port Attorney effective December 12, 2019 at an annual salary of \$323,655 plus benefits; and be it

**FURTHER RESOLVED**, that in acting upon the matters contained herein, the Board has exercised its independent judgment based upon 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 12, 2019  
Passed by the following vote:

Ayes: Commissioners Cluver, Colbruno, Lee, Leslie, Martinez, Story and  
President Butner – 7  
Noes: – 0

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

12/12/19  
CLOSED SESSION  
KIM/msr

*MA*

**RESOLUTION NO. 19-130**

**RESOLUTION AUTHORIZING AND DIRECTING THE  
PORT ATTORNEY'S OFFICE TO INITIATE TWO  
SEPARATE LEGAL ACTIONS ON BEHALF OF THE  
PORT OF OAKLAND.**

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**RESOLVED**, that the Board of Port Commissioners ("Board") hereby authorizes and directs the Port Attorney's Office to initiate two separate legal actions on behalf of the Port of Oakland. Additional particulars will be disclosed upon inquiry by any person after the actions have formally been commenced.

At the regular meeting held on December 12, 2019  
Passed by the following vote:

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

Noes: – 0