



**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 20-65

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION
OF A SETTLEMENT AGREEMENT AND RELEASE WITH INDIAN
HARBOR INSURANCE COMPANY CONCERNING MULTIPLE
SITES AT THE FORMER OAKLAND ARMY BASE IN THE
AMOUNT OF \$2.9 MILLION.**

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 Release with Indian Harbor Insurance Company ("XL") whereby, among other matters, XL will pay the Port of Oakland \$2.9 million concerning multiple sites at the former Oakland Army Base; 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 10, 2020
Passed by the following vote:

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

Noes: – 0



**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 20-66

RESOLUTION APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE AN AGREEMENT WITH THE UNITED STATES DEPARTMENT OF AGRICULTURE ANIMAL AND PLANT HEALTH INSPECTION SERVICE WILDLIFE SERVICES ("USDA APHIS WS") TO PROVIDE TWO FULL-TIME PERSONNEL TO PERFORM WILDLIFE MANAGEMENT SERVICES AT OAKLAND INTERNATIONAL AIRPORT FOR FIVE (5) YEARS, THROUGH FEDERAL FISCAL YEAR ("FFY") 2025, IN AN AMOUNT NOT TO EXCEED \$1,385,000 AND FINDING AND DETERMINING THAT SUCH AGREEMENT CONSTITUTES PROFESSIONAL, TECHNICAL, AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE AND WAIVING COMPETITIVE BIDDING.

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Board Agenda Report Item No. 6.1, dated September 10, 2020 (herein 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, 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 the testimony received, the Board finds that Federal Aviation Administration ("FAA") Regulations, Part 139.337 requires Oakland International Airport to implement a Wildlife Hazard Management Plan in order to protect the safety of the public (e.g., airport/airline passengers and the surrounding community), aircraft, and the airfield. The activities of this program have been part of the airport's on-going operations (Bird Hazard Reduction) since the late 1960s and were put in place prior to the adoption of the California Environmental Quality Act ("CEQA") in 1970. Renewing the existing contract for wildlife management services is statutorily exempt from CEQA pursuant to CEQA Guidelines Section 15261, Ongoing Project.

Section 2. The Board hereby finds and determines that the proposed agreement with the United States Department of Agriculture Animal and Plant Health Inspection Service Wildlife Services ("**USDA APHIS WS**") constitutes an agreement for professional, technical, and specialized services that are temporary in nature, and will not result in the loss of employment or salary by any person having permanent status in the competitive service.

Section 3. The Board hereby finds and determines that it is in the best interest of the Port to secure the services described in the Agenda Report from **USDA APHIS WS** without competitive bidding.

Section 4. The Board hereby approves and authorizes the Executive Director to execute for and on behalf of the Board an agreement with the **USDA APHIS WS** in an amount not to exceed \$1,385,000 for a five (5) year period (through FFY2025) for two (2) full-time wildlife personnel (1 biologist and 1 specialist) to perform wildlife management services.

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 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 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.

SECTION 6. This resolution shall be effective immediately upon adoption by the Board.

At the regular meeting held on September 10, 2020
Passed by the following vote:

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