

MA

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 20-73

**RESOLUTION APPROVING BUILDING PERMIT
REQUESTED BY T-MOBILE FOR WORK AT 1 AIRPORT
DRIVE, OAKLAND INTERNATIONAL AIRPORT,
TERMINALS 1 & 2.**

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated Item No. 2.1 - the Summary Approval for Permit Application (Port Permit No. 5308) dated September 22, 2020 - 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. 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 15301, Class 1(a), which exempts projects involving interior or exterior alterations to existing facilities involving negligible or no expansion of an existing use.

SECTION 2. 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: **T-Mobile.**

B. Premises: 1 Airport Drive, Terminals 1 & 2, Oakland, California.

C. Estimated Cost: \$280,000.00.

D. Work: Addition of nine new antennas on the roof of the connector building and removal of three for a net increase of six antennas, including upgrades to support equipment in the Terminal 1 equipment room.

E. Sustainability: Applicant will follow current Green Building and Energy Codes as enforced by the City of Oakland, as well as the construction debris recycling requirements.

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 October 22, 2020

Passed by the following vote:

Ayes: Commissioners Butner, Colbruno, Leslie, Martinez, Story and President Cluver – 6

Excused: Commissioner Lee – 1

Noes: – 0

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 20-74

**RESOLUTION APPROVING AND AUTHORIZING THE
EXECUTIVE DIRECTOR TO EXECUTE A MASTER
REIMBURSEMENT AGREEMENT BETWEEN THE PORT OF
OAKLAND ("PORT") AND SSA TERMINALS, LLC FOR
PORT MAINTENANCE RESPONSIBILITIES FOR THE
MATSON TERMINAL IN AN AMOUNT NOT-TO-EXCEED
\$5 MILLION THROUGH JUNE 30, 2032.**

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report for Agenda Item No. 6.1, dated October 22, 2020, 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, the Port and SSA Terminals, LLC ("SSA") entered into a Non-Preferential Assignment Agreement ("NEPAA") for the Matson Terminal on October 1, 2013. The NEPAA is currently set to expire on June 30, 2032; and

WHEREAS, the NEPAA identifies maintenance and repair responsibilities for the Port and SSA, however, the NEPAA does not contain a mechanism for cost reimbursement for maintenance and repair work completed by SSA on behalf of the Port; and

WHEREAS, the Port and SSA have negotiated a proposed Master Reimbursement Agreement ("Agreement") to address Port cost reimbursement to SSA for repairs and maintenance performed by SSA on behalf of the Port; 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 this proposed action was reviewed in accordance with the requirements of the California Environmental Quality Act ("CEQA"). The CEQA

Guidelines, Section 15061(b)(3) states that CEQA applies only to activities that have the potential for causing a significant effect on the environment. The establishment of a reimbursement agreement associated with the NEPAA has no impact on the environment under CEQA. No further environmental review is required.

Section 2. The Board hereby approves the terms and conditions of the Agreement with SSA in an amount not to exceed \$5,000,000, for a term through June 30, 2032, subject to the following repair thresholds: (1) Port repair items up to \$50,000 must be approved in writing by the Port's Director of Maritime, (2) Port repair items with costs between \$50,001 and \$650,000 must be approved in writing by the Executive Director of the Port ("Executive Director"), and (3) Port repair items with costs in excess of \$650,000 must be approved by the Board through an authorizing resolution, and on such other terms and conditions as set forth in the Agenda Report.

Section 3. The Board hereby authorizes the Executive Director to execute the Agreement, subject to the Port Attorney's review and approval as to form and legality.

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

At the regular meeting held on October 22, 2020
Passed by the following vote:

Ayes: Commissioners Butner, Colbruno, Leslie, Martinez, Story and
President Cluver – 6
Excused: Commissioner Lee – 1
Noes: – 0

MA

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 20-75

RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A SUPPLEMENTAL AGREEMENT WITH ORION ENGINEERS AND ASSOCIATES FOR ENGINEERING DESIGN SERVICES FOR AN ADDITIONAL AMOUNT NOT TO EXCEED \$816,000 FOR DESIGN CONSULTANT SERVICES ON THE RUNWAY 10R/28L CRACK SEALING, AND TAXIWAY BRAVO PAVEMENT REHABILITATION PROJECTS AT OAKLAND INTERNATIONAL AIRPORT.

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report Item 6.4 dated October 22, 2020 ("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, pursuant to Board Resolution 18-113 dated October 25, 2018, the Port entered into a professional services agreement with **Orion Engineers and Associates LLC ("Orion")** for a five (5) year program of engineering design services for pavement rehabilitation services at Oakland International Airport; 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. The proposed action to execute a supplemental agreement was reviewed in accordance with the requirements of the California Environmental Quality Act ("CEQA") and CEQA Guidelines. Rehabilitating the pavement is categorically exempt from CEQA pursuant to the CEQA Guidelines Section 15301 Existing Facilities which exempts from CEQA the repair, maintenance, and minor alteration of existing structures and facilities that involve negligible or no expansion of use beyond that existing at the time of the lead agency's determination.

B. The proposed supplemental agreement with **Orion** constitutes 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 **Orion**.

SECTION 2. The Board hereby authorizes the Executive Director of the Port ("Executive Director") to execute a third supplemental agreement with **Orion** for design consultant services for the Runway 10R/28L crack sealing and Taxiway Bravo (Phases 2 and 3) pavement rehabilitation projects in an additional amount not to exceed \$816,000, including a \$50,000 contingency for a total maximum compensation not to exceed \$4,397,000.

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).

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

At the regular meeting held on October 22, 2020
Passed by the following vote:

Ayes: Commissioners Butner, Colbruno, Leslie, Martinez, Story and
President Cluver – 6
Excused: Commissioner Lee – 1
Noes: – 0

MA

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 20-76

**RESOLUTION APPROVING THE DRAFT PORT SHARE PLAN FOR
THE JACK LONDON IMPROVEMENT DISTRICT FOR FISCAL
YEAR 2020 IN THE AMOUNT OF \$177,000.43.**

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report for Agenda Item 6.5, dated October 22, 2020 (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, Section 706 of the Charter of the City of Oakland ("City") 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 approval will provide service for members of the public who use the waterfront, and is consistent with the Port's duty to use and manage Port property in trust for the people of the State of California (the "Tidelands Trust"), and the private use of Port property 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. Based upon the information contained in the Agenda Report and in testimony received, the Board finds and determines the following:

- A. The proposed approval is not subject to the requirements of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15061(b)(3), which states the "general rule" that CEQA applies only to projects that have the potential for causing a significant effect on the environment, because it can be seen with certainty that there is no possibility the proposed approval will have a significant effect on the environment and therefore is not a project under CEQA and no further environmental review is required; and

- B. Each proposed service and expenditure described in the Draft Port Share Plan is consistent with the Trust, as defined in the 2013 Jack London Improvement District Public (JLID) Trust Agreement, and the JLID has established by objective analysis that the Trust will receive a proportionate special benefit.

SECTION 2. The Board hereby approves the Draft Port Share Plan for the Jack London Improvement District for Fiscal Year 2020 in the amount of **\$177,000.43**, as further described in the Agenda Report.

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.

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

At the regular meeting held on October 22, 2020

Passed by the following vote:

Ayes: Commissioners Butner, Colbruno, Leslie, Martinez, Story and President Cluver – 6

Excused: Commissioner Lee – 1

Noes: – 0

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

10/22/2020
Item No. 6.6
CF/msr



RESOLUTION NO. 20-77

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, INCLUDING THE POWER CONTENT LABEL FOR CALENDAR YEAR 2019.

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated Agenda Report Item 6.6 dated October 22, 2020, 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. The submittal of an attestation of the veracity of the Port's Power Source Disclosure Report, including the Power Content Label for calendar year 2019 ("Report") to the California Energy Commission was 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 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. 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 is a retail supplier within the meaning of Section 398.5.

- c. 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.
- d. Port staff have prepared the Report and submitted it to the California Energy Commission in September 2020.

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 Report pursuant to Section 1394(b)(2) described above, for Calendar Year 2019.

Section 3. This resolution shall be effective immediately upon adoption by the Board.

At the regular meeting held on October 22, 2020
Passed by the following vote:

Ayes: Commissioners Butner, Colbruno, Leslie, Martinez, Story and
President Cluver – 6
Excused: Commissioner Lee – 1
Noes: – 0

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

10/22/2020
Item No. 6.7
CF/msr

MA

RESOLUTION NO. 20-78

RESOLUTION DELEGATING AUTHORITY TO THE EXECUTIVE DIRECTOR TO TAKE ACTIONS AS REQUIRED UNDER ASSEMBLY BILL 32, THE CALIFORNIA GLOBAL WARMING SOLUTIONS ACT OF 2006 (AB32), TO AUCTION OFF EXCESS ALLOWANCES PURSUANT TO THE CAP-AND-TRADE PROGRAM ESTABLISHED BY THE CALIFORNIA AIR RESOURCES BOARD.

WHEREAS, in 2006, the California Legislature enacted Assembly Bill 32 ("AB32"), which required the California Air Resources Board ("CARB") to, among other things, adopt (i) statewide greenhouse gas ("GHG") emissions limits, (ii) reporting and verification requirements, and (iii) rules and regulations to achieve the maximum technologically feasible and cost-effective GHG emissions reductions, including the authority to establish market-based compliance mechanisms; and

WHEREAS, the Port of Oakland ("Port") is a municipal utility that is subject to the requirements of AB32; and

WHEREAS, one of the programs CARB established pursuant to AB32 is the "Cap-and-Trade Program" which, among other things, allocates to certain electric utilities free allowances to offset such utilities' compliance obligations; and

WHEREAS, to the extent an electric utility has any excess allowances under the Cap-and-Trade Program, those allowances must be sold at an auction pursuant to the Cap-and-Trade Program; and

WHEREAS, Port staff have estimated the minimum value of the Port's allowances under the Cap-and-Trade Program through 2030 and are requesting that the Board authorize the Executive Director to take all actions necessary to continue to participate in and receive auction revenues for the sale of allowances pursuant to the Cap-and-Trade Program through Calendar Year 2031; and

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated Agenda Report Item 6.7 dated October 22, 2020, and related agenda materials ("Agenda Report"), has received the expert testimony of 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. The proposal to delegate authority to the Executive Director or his designee to perform the duties within the Cap-and-Trade Program was reviewed in accordance with the requirements of the California Environmental Quality Act ("CEQA"). The CEQA Guidelines, Section 15061(b)(3) states that CEQA applies only to projects that have the potential for causing a significant effect on the environment. It can be seen with certainty that participating in the Cap-and-Trade Program will not result in a physical change in the environment. Therefore, this action is not subject to CEQA and no further environmental review is required.
- b. The purpose of the Cap-and-Trade Program is to reduce GHG emissions and promote improved air quality throughout California. The Port's participation in the Cap-and-Trade Program auction can help ensure the success of the overall GHG reduction program required under AB32.

Section 2. The Board hereby delegates to the Executive director or his designee, in consultation with the Port Attorney, the authority to take all actions necessary to sell the Port's allowances at an auction pursuant to the Cap-and-Trade Program through the end of calendar year 2031, thereby enabling the Port to continue to receive auction revenues therefrom.

Section 3. Port staff shall return to the Board for further authorization regarding expenditures of auction revenue in excess of the Executive Director's authority.

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

At the regular meeting held on October 22, 2020

Passed by the following vote:

Ayes: Commissioners Butner, Colbruno, Leslie, Martinez, Story and

President Cluver – 6

Excused: Commissioner Lee – 1

Noes: – 0