



**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 22-53

**RESOLUTION APPROVING BUILDING PERMIT
REQUESTED BY U.S. CUSTOMS AND BORDER
PROTECTION FOR WORK AT 1300 MARITIME
STREET, BERTHS 26-33, OAKLAND.**

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated Item No. 2.4 - the Summary Approval for Permit Application (Port Permit No. 5351) dated May 10, 2022, - 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 (defined below) to be performed under this building permit is categorically exempt from the requirements of the California Environmental Quality Act ("CEQA") under Section 15301 of the CEQA Guidelines because the proposed action consists of activities that involve 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 the 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: **U.S. Customs and Border Protection.**

B. Premises: 1300 Maritime Street, Berths 26-33, Oakland, California (currently occupied by TraPac).

C. Estimated Cost: \$730,000.00.

D. Work: Upgrades to scanning devices (RPMs) at the new marine terminal entrance to allow remote monitoring, including installation of new camera and light poles, monitoring equipment, and electrical and data connections.

E. Sustainability: The Work will allow monitoring from a remote location for multiple terminal entrances and thereby increase efficiency and reduce travel to sites. The Work will also comply with the California Green Building Code for new materials, and all debris will be handled according to the California Construction and Demolition Debris Recycling regulation.

Section 3. Neither this resolution nor the Board's approval of the 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 the Work or with respect to any agreement between the Port and Applicant.

Section 4. 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 5. This resolution shall be effective immediately upon adoption by the Board.

At the regular meeting held on June 23, 2022

Passed by the following vote:

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

Excused: First Vice-President Leslie – 1

Noes: – 0

YCP

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 22-54

**RESOLUTION APPROVING BUILDING PERMIT
REQUESTED BY U.S. CUSTOMS AND BORDER
PROTECTION FOR WORK AT 5190 7TH STREET,
BERTHS 34-38, OAKLAND.**

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated Item No. 2.5 - the Summary Approval for Permit Application (Port Permit No. 5352) dated May 10, 2022, - 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 (defined below) to be performed under this building permit is categorically exempt from the requirements of the California Environmental Quality Act ("CEQA") under Section 15301 of the CEQA Guidelines because the proposed action consists of activities that involve 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 the 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: **U.S. Customs and Border Protection.**

B. Premises: 5190 7th Street, Berths 34-38, Oakland, California (currently occupied by Everport Terminal Services).

C. Estimated Cost: \$800,000.00.

D. Work: Upgrades to scanning devices (RPMs) at the main marine terminal entrance to allow remote monitoring, including installation of new camera and light poles, monitoring equipment, and electrical and data connections.

E. Sustainability: The Work will allow monitoring from a remote location for multiple terminal entrances and thereby increase efficiency and reduce travel to sites. The Work will also comply with the California Green Building Code for new materials, and all debris will be handled according to the California Construction and Demolition Debris Recycling regulation.

Section 3. Neither this resolution nor the Board's approval of the 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 the Work or with respect to any agreement between the Port and Applicant.

Section 4. 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 5. This resolution shall be effective immediately upon adoption by the Board.

At the regular meeting held on June 23, 2022

Passed by the following vote:

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

Excused: First Vice-President Leslie – 1

Noes: – 0

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

6/23/2022
MCR/PCM



RESOLUTION NO. 22-55

**RESOLUTION DETERMINING THAT CONDUCTING IN-
PERSON MEETINGS OF THE BOARD OF PORT
COMMISSIONERS WOULD PRESENT IMMINENT RISKS TO
ATTENDEES' HEALTH AND SAFETY AND ELECTING TO
CONTINUE CONDUCTING MEETINGS USING
TELECONFERENCING IN ACCORDANCE WITH
CALIFORNIA GOVERNMENT CODE SECTION 54953(e) .**

WHEREAS, the Board of Port Commissioners ("Board") of the City of Oakland ("City") has received the expert testimony of Port of Oakland ("Port") staff, and has provided opportunities for and taken public comment; and

WHEREAS, the ongoing spread of SARS-CoV-2 and the resulting Coronavirus Disease ("COVID-19") is a pandemic posing an imminent and serious threat to health and safety of the public, the Port and its employees, customers, tenants, contractors, and other stakeholders; and

WHEREAS, on January 30, 2020, the World Health Organization declared the COVID-19 outbreak a Public Health Emergency of International Concern, and on January 31, 2020, the U.S. Department of Health and Human Services declared a Public Health Emergency for the United States; and

WHEREAS, on March 4, 2020, the Governor of the State of California ("Governor") proclaimed a State of Emergency in response to the threat posed by COVID-19 and issued various Executive Orders in response to such threat, and such declaration has not been lifted or rescinded; and

WHEREAS, on March 9, 2020, the City Administrator in his capacity as the Director of the Emergency Operations Center ("EOC"), issued a proclamation of local emergency due to the spread of COVID-19 in Oakland, and on March 12, 2020, the City Council passed Resolution No. 88075 C.M.S. ratifying the proclamation of local emergency pursuant to Oakland Municipal Code (O.M.C.) section 8.50.050(C); and

WHEREAS, City Council Resolution No. 88075 remains in full force and effect to date; and

WHEREAS, on March 12, 2020, the Governor issued Executive Order N-25-20, which waived certain requirements that public meetings occur in-person and allowed public meetings to proceed through teleconference; and

WHEREAS, on March 23, 2020, the Executive Director declared an emergency determining that the COVID-19 pandemic posed a threat to the health and safety of Port employees and the safe efficient operation of critical Port operations ("Executive Director's Declaration of Emergency"); and

WHEREAS, on March 26, 2020, the Board ratified the Executive Director's Declaration of Emergency and found that the COVID-19 pandemic constituted a condition of "extreme emergency" or "emergency" for the purposes of all Board-approved policies that affect Port operations, including, without limitation, the By-Laws, the Purchasing Ordinance, the Personnel Rules and Procedures of the Port of Oakland, the Employer-Employee Relations Ordinance, and the Rules and Regulations for Oakland International Airport ("Airport Rules and Regulations"), the Meyers-Miliias-Brown Act ("MMBA"), and the Charter; and

WHEREAS, on September 16, 2021, the Governor signed into law Assembly Bill 361 ("AB 361") through Executive Order N-1-22, which amended the Government Code and Education Code to provide flexibility for public agencies to conduct public meetings; and

WHEREAS, Executive Order N-1-22 made specific findings that the Omicron variant is more transmissible than prior COVID-19 variants and that requiring large numbers of individuals to travel and gather for in-person public meetings could potentially expose individuals to COVID-19, including the Omicron variant; and

WHEREAS, the Centers for Disease Control and Prevention ("CDC") recommends physical distancing of at least six (6) feet whenever possible, avoiding crowds, and avoiding spaces that do not offer fresh air from the outdoors, particularly for people who are not fully vaccinated or who are at higher risk of getting very sick from COVID-19; and

WHEREAS, the CDC recommends that people who live with unvaccinated people avoid activities that make physical distancing difficult; and

WHEREAS, the CDC recommends that older adults limit in-person interactions as much as possible, particularly when indoors; and

WHEREAS, the CDC, the California Department of Public Health, and the Alameda County Public Health Department all recommend that people experiencing COVID-19 symptoms stay home; and

WHEREAS, at its regular meeting on September 28, 2021, the Alameda County Board of Supervisors adopted the recommendation of the Alameda County Health Care Services Agency Director for continued social distancing at all meetings of the full Board of Supervisors and at all committee meetings, with said recommendation based on the continued threat of COVID-19 to the community, the unique characteristics of public government meetings, and the continued increased safety protection provided through social distancing as one method to reduce the risk of COVID-19 transmission; and

WHEREAS, Article 7 of the Charter of the City of Oakland ("Charter") vests in the Board the exclusive control and management of the Port Department including, among other things, the complete and exclusive power to: "sue and defend in the name of the City in all actions and proceedings wherein there is involved any matters within the jurisdiction of the Board" (706(1)), "have control and jurisdiction of...the 'Port Area'" (706(4)), "expend all funds necessary to the carrying out of the powers and duties [expressed in Article 7 of the Charter]" (706(26)), and "do and perform any and all other acts and things which may be necessary and proper to carry out the general powers of the City, or any provisions of [Article 7 of the Charter]" (706(30)); and

WHEREAS, holding in-person meetings may encourage community members to come to Port facilities to participate in local government, and some of them would be at high risk of getting very sick from COVID-19 and/or would live with someone who is at high risk; and

WHEREAS, on September 30, 2021, October 28, 2021, January 27, 2022, February 24, 2022, March 24, 2022, April 28, 2022, and May 26, 2022, the Board passed resolutions, which contain many of the same provisions as contained herein; 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 related agenda materials and in testimony received;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

Section 1. Based upon the information contained herein and in testimony received, the Board finds and determines that:

- A. The requested action is exempt from the California Environmental Quality Act ("CEQA") under the general rule exclusion under Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that the proposed actions will not have a significant effect on the environment and therefore is not a "project" under CEQA.
- B. Based on the findings above and consistent with federal, state, and local health guidance, it has been determined that, at this time in light of the continued threat of COVID-19 to the community and to protect health and safety, conducting in-person meetings for all participants would pose imminent risks to the health and safety of attendees.
- C. The community's health and safety risks and the community's right to participate in local government are both critically important and the Port will balance these interests by continuing to use teleconferencing to conduct public meetings, in accordance with California Government Code Section 54953(e).

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.

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

At the regular meeting held on June 23, 2022

Passed by the following vote:

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

Excused: First Vice-President Leslie – 1

Noes: – 0

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

6/23/2022
Item No.: 4.1
CT/pcm

HCA

RESOLUTION NO. 22-56

RESOLUTION APPROVING THE PORT OF OAKLAND'S ANNUAL OPERATING AND CAPITAL BUDGETS FOR THE FISCAL YEAR ENDING JUNE 30, 2023; AUTHORIZING THE PAYMENT OF OPERATING AND OTHER EXPENSES, THE PAYMENT OF DEBT SERVICE OF THE PORT FOR THE FISCAL YEAR ENDING JUNE 30, 2023; AUTHORIZING THE PAYMENT OF APPROXIMATELY \$112.4 MILLION OF TOTAL CAPITAL EXPENDITURES, AS PROVIDED IN THE CAPITAL BUDGET FOR THE FISCAL YEAR ENDING JUNE 30, 2023; AND AUTHORIZING FY 2022 CARRYOVER SPENDING IN FY 2023.

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated Board Agenda Report Item No. 4.1, dated June 23, 2022 ("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, there has been presented to the Board a proposed Operating Budget for the Fiscal Year 2022-2023 (the "FY 23 Operating Budget") and a proposed Capital Budget for the Fiscal Year 2022-2023 (the "FY 23 Capital Budget") as set forth in the Budget Summary presented to the Board on June 23, 2022; now, therefore, be it

RESOLVED, that the Board hereby finds and determines that the proposed action is not subject to the California Environmental Quality Act ("CEQA") under Section 15378(b)(4) of the CEQA Guidelines because the "creation of government funding mechanisms or other government fiscal activities which do not involve any commitment to any specific project" are not considered a "project" and, therefore, the proposed action is not subject to CEQA; and be it

FURTHER RESOLVED, that the Board hereby adopts and approves the FY 23 Operating Budget, and hereby authorizes the payment of operating expenses, interest expenses, and other expenses, and the payment of debt service of the Port as described in the Budget Summary attached as Attachment A to the Agenda Report; subject, as may be appropriate, to subsequent Board authorization of particular contracts for certain of such expenditures, as required by Port Ordinance No. 4576 (as amended), the Charter of the City of Oakland ("City Charter"), and other requirements of the Board; and further subject, with respect to Lake Merritt and General Services payments to the City of Oakland, to the Board's determination of sufficient monies available to make such payments pursuant to applicable provisions of the City Charter, as well as receipt by the Port of sufficient documentation to make such payments; and be it

FURTHER RESOLVED, that the Board hereby adopts and approves the FY 23 Capital Budget, and hereby authorizes the payment of approximately \$112.4 million of total capital expenses as provided in the FY 23 Capital Budget and as described in the Budget Summary; subject, as may be appropriate, to subsequent Board authorization of particular contracts for certain of such expenditures, as required by Port Ordinance No. 4576 (as amended), the City Charter, and other requirements of the Board; and be it

FURTHER RESOLVED, that the Board hereby authorizes FY 2022 carryover capital spending in FY 2023; and be it

FURTHER RESOLVED, that the Board hereby directs Port staff to submit to the Board monthly variance reports with respect to the FY 23 Operating Budget and quarterly variance reports with respect to the FY 23 Capital Budget; and be it

FURTHER RESOLVED, that the Board hereby directs Port staff to file with the City Council, the City Administrator, and City Auditor a certified copy of the budget as set forth in the City Charter; and be it

FURTHER RESOLVED, that the Board hereby authorizes the Executive Director to take all necessary and appropriate actions to carry out the above actions; 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 agenda materials and in testimony received; and be it

FURTHER RESOLVED, that this resolution shall be effective immediately upon adoption by the Board.

At the regular meeting held on June 23, 2022

Passed by the following vote:

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

Excused: First Vice-President Leslie – 1

Noes: – 0



**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 22-57

RESOLUTION APPROVING AND AUTHORIZING THE PORT ATTORNEY TO ENTER INTO FISCAL YEAR 2023 RETENTION AGREEMENTS WITH THE LAW FIRMS AND CONSULTANTS DESCRIBED ON ATTACHMENT A IN CONNECTION WITH WORK DESCRIBED THEREIN AT A TOTAL INITIAL CUMULATIVE COMPENSATION NOT TO EXCEED \$3,456,000 FOR FISCAL YEAR 2023, SUBJECT TO ADJUSTMENT PURSUANT TO THE PORT ATTORNEY'S CONTRACTING AUTHORITY.

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated Agenda Report Item No. 4.3, dated June 23, 2022, 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;

WHEREAS, prior to the June 23, 2022, Board meeting, the Port Attorney provided certain attorney-client communications regarding the nature of the matters needing outside counsel and related consultant legal advice in Fiscal Year 2023 and the extent of such outside advice ("Attorney-Client Information");

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 finds and determines that the proposed action is not subject to the California Environmental Quality Act ("CEQA") under the general rule exclusion under Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that the proposed action will not have a significant effect on the environment and therefore is not a "project" under CEQA.

SECTION 2. Based upon the information contained in the Agenda Report and testimony received, the Board hereby finds and determines that the agreements with **the law firms and consulting firms described on Attachment A** constitute agreements for obtaining professional, technical, and specialized services that are temporary in nature and that it is in the best interest of the Port to secure such services from those parties listed on **Attachment A**.

SECTION 3. The Board hereby:

A. Approves the appointment of **the law firms described on the Attachment A**, as Special Counsel, part-time, pursuant to the provisions of Section 6.05 of Port Ordinance No. 867, as well as the consulting firms described on **Attachment A** to render expert assistance to the Port Attorney in connection with the matters described on **Attachment A**; the compensation of and reimbursement for out-of-pocket expenses incurred by said Special Counsel and consultants to be made from time to time as approved by the Port Attorney, up to, but not to exceed the amounts per firm per matter as provided in the Attorney-Client Information, in the initial total cumulative amount of \$3,456,000 for Fiscal Year 2023, all subject to adjustment during Fiscal Year 2023 by the Port Attorney for additional amounts or for additional firms under her contracting authority or by further Board action.

B. Authorizes the Port Attorney to execute the agreements with the law firms and consulting firms listed on **Attachment A**.

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 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.

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

At the regular meeting held on June 23, 2022
Passed by the following vote:

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

ATTACHMENT A

PORT ATTORNEY'S OFFICE OUTSIDE COUNSEL/CONSULTING FIRMS FY2022-23

| LAW FIRM/CONSULTING FIRM/COST ITEMS | MATTER NAMES |
|---|---|
| Anderson & Krieger LLP (Cambridge, MA) | |
| | Aviation Regulatory Matters/ Airport Projects |
| Andrada & Associates (Oakland) | |
| | General Claims and Litigation |
| | Francisco v. Port |
| Best Best & Krieger (Walnut Creek) | |
| | Airport Construction Advice |
| | Harbor Turning Basin Project |
| | Litigation |
| | Howard Terminal (Litigation) |
| | Utility Rates |
| Buchalter, a Professional Corporation (San Francisco) | |
| | Litigation (including bankruptcy) |
| Donahue Fitzgerald (Oakland) | |
| | Real Estate/Leasing Advice |
| Duncan Weinberg, Genzer, Pembroke, P.C. (Washington, DC) | |
| | Power Utility Advice |
| Environmental General Counsel (Berkeley) | |
| | Environmental Pollution Issues: Howard Terminal |
| Faegre Drinker Biddle & Reath LLP (Los Angeles) | |
| | Benefits |
| Farella Braun + Martel LLP (San Francisco) | |
| | General Risk Management and Cost Recovery Advice |
| | GASB 49 Cost Recovery Claims Against Insurance |
| | Carriers/Insurance Advice Related to Pollution Conditions |
| Goldfarb & Lipman LLP (Oakland) | |
| | Howard Terminal Real Estate Advice |
| Hanson Bridgett (San Francisco) | |
| | Employment Advice |
| | Employment Claims/Litigation |
| | Copyrights/Trademarks/Intellectual Property Advice |
| Hogan Lovells US LLP (Washington, DC) | |
| | Railroad/Surface Transportation Board Advice |
| Jenner & Block (Los Angeles) | |
| | Drinking Water |
| | Air Quality |
| | Howard Terminal (Litigation) |

| LAW FIRM/CONSULTING FIRM/COST ITEMS | MATTER NAMES |
|---|--|
| Laughlin Falbo Levy & Morell (Oakland) | |
| | Workers' Compensation |
| Law Office of Clare M. Gibson (Oakland) | |
| | Public Works Contracting Advice (General) |
| | Bid/Proposal Protests Advice |
| Mullen & Filippi (Oakland) | |
| | Workers' Compensation |
| Newmeyer & Dillion | |
| | General Claims and Litigation |
| O'Melveny & Myers LLP (Los Angeles) | |
| | Bond/Finance Matter |
| Orrick Herrington & Sutcliffe (San Francisco) | |
| | Bond/Tax/Finance Matters |
| Perkins Coie LLP (San Francisco) | |
| | Eagle Rock Aggregates |
| | Airport Projects |
| | Turning Basin |
| Ramsey Law Group (Lafayette) | |
| | General Commercial Collection and Litigation (Unlawful Detainers, etc.) |
| Richard Thorson Grave & Royer LLP (Oakland) | |
| | Workers' Compensation |
| Rudder Law Group (Alameda) | |
| | Aviation Regulations and Permitting |
| | EPA Administrative Order and Sanitary Sewer Issues |
| | Ethics/Governance/Municipal Affairs |
| | Port Codes, CEQA Guidelines, and Other Policy Assistance |
| | Howard Terminal Advice (includes Tidelands Trust & BCDC) |
| | Oak to Ninth (Real Estate Advice) |
| | Dredging and 50-foot Dredging Project closeout |
| | Regulatory Agency & Other Claims (BCDC, Corps, RWQCB, etc.) |
| | JLS Common Area Operator claims |
| | Port Ethics Training |
| Saul Ewing Arnstein & Lehr LLP (D.C.) | |
| | Shipping Act Advice; Terminal Leasing Efficiency Issues/Operations (Shipping Act/FMC Advice) |
| Sloan Sakai Yeung & Wong LLP (Berkeley) | |
| | Labor Negotiations/Labor Advice |
| | Litigation and Employment Claims |
| Sweet & Walker (San Francisco) | |
| | Collection Matters |
| Wendel Rosen LLP (Oakland) | |
| | Anticipated Litigation, Strategies & Appeals/Other Advice (including OAB) |
| | Clean Water/Environmental Regulatory Advice |
| | PRP Cost Recovery |

| LAW FIRM/CONSULTING FIRM/COST ITEMS | MATTER NAMES |
|-------------------------------------|------------------------------------|
| | General Construction |
| | Construction Claims and Litigation |
| | Rolls Royce |
| | Trademark Advice |
| | PFAS (Fire-Fighting Foam) |
| White Brenner LLP (Sacramento) | |
| | Security Badge Appeal |

| |
|--|
| Human Resources ("HR") related investigators retained by Port Attorney's Office but coded to HR's budget. |
| ▶ Mary T. Roemer aka Terry Roemer, Esq. (Law Offices of Terry Roemer) |
| ▶ Karen Kramer dba Kramer Workplace Investigations (Attorney) |
| ▶ ARI Investigations, Inc. (Not Attorneys) |
| ▶ Municipal Resource Group LLC (Attorneys) |
| ▶ Prescott Law (Attorney) |
| ▶ Meyers Nave (Attorney) |
| ▶ Van Dermyden Makus Law Corporation (Attorneys) |

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

06/23/2022
Item No.: 6.3
KIM/pcm



RESOLUTION NO. 22-58

**RESOLUTION APPROVING AND AUTHORIZING THE
EXECUTIVE DIRECTOR TO ENTER INTO A
PROFESSIONAL SERVICES AGREEMENT WITH ARCOS
LLC, DBA IN CALIFORNIA AS AUTOMATED ROSTER
CALLOUT SYSTEM COMPANY LLC TO IMPLEMENT AN
AUTOMATED SHIFT CALLOUT SYSTEM FOR THE
OAKLAND INTERNATIONAL AIRPORT FOR A TERM OF
FIVE YEARS IN A TOTAL AMOUNT NOT TO EXCEED
\$300,000.**

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report for Agenda Item No. 6.3, dated June 23, 2022, 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 proposed action is not subject to the California Environmental Quality Act ("CEQA") under the general rule exclusion under Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that the proposed action will not have a significant effect on the environment and therefore is not a "project" under CEQA.

B. The proposed action is for obtaining professional, technical, and specialized services that are temporary in nature, and it is in the best interest of the Port to secure such services from **ARCOS LLC, DBA in California as Automated Roster Callout System Company LLC**.

Section 2. The Board hereby approves and authorizes the Executive Director to:

A. Execute a Professional Services Agreement ("Agreement") with **ARCOS LLC, DBA in California as Automated Roster Callout System Company LLC** (and as such Agreement may be automatically assigned as described in the Agenda Report) to implement an automated shift callout system for the Oakland International Airport for a term of five years, in a total amount not to exceed \$300,000, as further described in the Agenda Report, subject to approval as to form and legality by the Port Attorney; and

B. Make any additions, modifications, or corrections necessary to execute the requested Agreement or to correct errors, subject to the limitations set forth herein, provided that any addition, modification, or correction does not materially differ from the terms and conditions set forth herein and in the Agenda Report, and 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 Port. 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 party, there shall be no valid or effective agreement.

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

At the regular meeting held on June 23, 2022

Passed by the following vote:

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

Excused: First Vice-President Leslie – 1

Noes: – 0

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

06/23/2022
Item No.: 6.4
KIM/pcm

MEH

RESOLUTION NO. 22-59

RESOLUTION APPROVING AND AUTHORIZING (1) THE EXECUTIVE DIRECTOR TO PROCURE VEHICLES FOR USE BY AVIATION AND MARITIME DIVISIONS AT A TOTAL COST NOT-TO-EXCEED \$1,047,200; (2) THE DESIGNATION OF CERTAIN OTHER EXISTING VEHICLES AS NO LONGER USED, INADEQUATE, OBSOLETE OR WORN-OUT, AND THE SALE, DONATION, AND/OR OTHER DISPOSITION OF SUCH OTHER EXISTING VEHICLES; AND (3) THE EXECUTIVE DIRECTOR TO DISPOSE OF SUCH OTHER EXISTING VEHICLES THROUGH A VARIETY OF MEANS, INCLUDING SALE, DONATION, SCRAPPING, RECYCLING, DESTRUCTION, AND ABANDONMENT IN ACCORDANCE WITH PORT ORDINANCE 4576.

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report for Agenda Item No. 6.4, dated June 23, 2022, 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 proposed action is not subject to the California Environmental Quality Act ("CEQA") under the general rule exclusion under Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that the proposed action will not have a significant effect on the environment and therefore is not a "project" under CEQA.

B. It is in the best interest of the Port to designate and the Board hereby designates certain existing Port vehicles used by the Aviation and Maritime divisions, as further described in the Agenda Report ("Surplus Property"), as no longer used, inadequate, obsolete or worn-out within the meaning of Port Ordinance No. 4576, and Sections 5.13(a) of the Port's Bond Indentures.

Section 2. The Board hereby:

- A. Approves and authorizes the Executive Director to procure 12 new vehicles, from Dublin Chevrolet or an alternative dealer, through either a competitive solicitation or use of an existing competitively solicited contract, for use by the Aviation and Maritime divisions at a total cost not to exceed \$1,047,200, including contingency, and as further described in the Agenda Report, and further authorizes the Executive Director to execute such contracts and any and all related documents, subject to approval as to form and legality by the Port Attorney.
- B. Authorizes the sale, donation, and/or other disposition of the Surplus Property.
- C. Authorizes the Executive Director to dispose of the Surplus Property through a variety of means, including sale, donation, scrapping, recycling, destruction, and abandonment in compliance with Port Ordinance No. 4576, as more fully described in the Agenda Report.
- D. Authorizes the Executive Director to execute all appropriate documents necessary to transfer ownership of property subject to the conditions stipulated, as more fully described in the Agenda Report.
- E. Approves and authorizes the Executive Director to make any additions, modifications, or corrections necessary to execute the aforesaid contracts and/or other documents or to correct errors, subject to the limitations set forth herein, provided that any addition, modification, or correction does not materially differ from the terms and conditions set forth herein and in the Agenda Report, and 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 Port. 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 as approved as to form and legality by the Port Attorney, and is delivered to the other contracting party, there shall be no valid or effective agreement.

Section 4. 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.

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

At the regular meeting held on June 23, 2022

Passed by the following vote:

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

Excused: First Vice-President Leslie – 1

Noes: – 0



**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION NO. 22-60

**RESOLUTION APPROVING AND AUTHORIZING THE
EXECUTIVE DIRECTOR TO ENTER INTO A FIRST
SUPPLEMENTAL AGREEMENT TO THE PROFESSIONAL
SERVICES AGREEMENT WITH D&A COMMUNICATIONS
TO: (1) EXPAND THE SCOPE OF WORK FOR THE
"EVERYONE'S PORT" PUBLIC EDUCATION CAMPAIGN;
AND (2) INCREASE THE COST FOR THE THREE-YEAR
TERM TO A TOTAL AMOUNT NOT TO EXCEED \$505,000.**

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report for Agenda Item No. 6.5, dated June 23, 2022, 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 proposed action is not subject to the California Environmental Quality Act ("CEQA") under the general rule exclusion under Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that the proposed action will not have a significant effect on the environment and therefore is not a "project" under CEQA.

B. The proposed First Supplemental Agreement to the Professional Services Agreement with **D&A Communications** expanding the scope of work for the "Everyone's Port" Public Education Campaign and Opinion Polling Services 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 **D&A Communications**.

Section 2. The Board hereby approves and authorizes the Executive Director to:

A. Enter into a First Supplemental Agreement to the Professional Services Agreement with **D&A Communications** to: (1) expand the scope of work for the "Everyone's Port" Public Education Campaign and Opinion Polling Services; and (2) increase the cost by \$155,000, to a total amount not to exceed \$505,000 for the three-year term, as further described in the Agenda Report, subject to approval as to form and legality by the Port Attorney; and

B. Make any additions, modifications, or corrections necessary to execute the requested agreement or to correct errors, subject to the limitations set forth herein, provided that any addition, modification, or correction does not materially differ from the terms and conditions set forth herein and in the Agenda Report, and 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 Port. 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 party, there shall be no valid or effective agreement.

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

At the regular meeting held on June 23, 2022

Passed by the following vote:

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

Excused: First Vice-President Leslie – 1

Noes: – 0

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

6/23/2022
Item No.: 6.6
DC/pcm

MCR

RESOLUTION NO. 22-61

RESOLUTION APPROVING THE APPOINTMENT OF RIC JAZAIE AS THE CHIEF AUDIT OFFICER AT AN ANNUAL SALARY OF \$225,000 EFFECTIVE UPON SUCCESSFUL COMPLETION OF THE TRANSPORTATION SECURITY ADMINISTRATION BACKGROUND CHECK AND ISSUANCE OF THE APPOINTMENT LETTER; AND AUTHORIZING THE BOARD PRESIDENT TO EXECUTE THE APPOINTMENT LETTER.

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report for Agenda Item No. 6.6, dated June 23, 2022, 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 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 the 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 and determines that:

A. The proposed action is not subject to the California Environmental Quality Act ("CEQA") because it is an organizational or administrative activity that will not result in direct or indirect physical changes in the environment and is thus not a "project" under Section 15378(5) of the CEQA Guidelines.

Section 2. The Board hereby:

A. Appoints Ric Jazaie as the Chief Audit Officer at an annual salary of \$225,000 effective upon successful completion of the Transportation Security Administration Background Check and issuance of the appointment letter; and

B. Authorizes the President of the Board of Port Commissioners to execute the appointment letter.

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 Port. The Chief Audit Officer classification is an "at will" senior management classification exempt from the City of Oakland's Civil Service System.

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

At the regular meeting held on June 23, 2022

Passed by the following vote:

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

Excused: First Vice-President Leslie – 1

Noes: – 0