EXHIBIT A

PORT OF OAKLAND

PORT OF OAKLAND
EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (the "Agreement") is made and is effective upon signing between the City of Oakland, a municipal corporation, acting by and through its Board of Port Commissioners (the "Board" or "Port") and Danny W. Wan (the "Employee"), collectively the "Parties."

BACKGROUND

The Board desires to appoint the Employee as the Executive Director of the Port. The Port also desires to provide certain compensation and benefits to the Employee to induce the Employee to continue employment with the Port for a three (3)-year term and to enhance the Employee's ability to perform effectively as the Port's Executive Director during that period.

The Employee is willing to be employed by the Port on the terms and subject to the conditions set forth in this Agreement. This Agreement replaces and supersedes any and all prior agreements, offers of employment or obligations between the Port and the Employee.

THE PARTIES AGREE AS FOLLOWS:

1. Term. The terms and conditions of this Agreement shall be in effect for three (3) years commencing on November 14, 2019, and expiring at midnight on November 13, 2022 ("Term"); provided however, this Agreement may be terminated by either the Employee or the Port as provided below, or amended by mutual written agreement between the Parties.

2. Positions and Duties.

2.1 Executive Director. The Port shall employ the Employee as its Executive Director and the Port agrees to employ and retain the Employee in such capacity in accordance with the terms and conditions of this Agreement.

2.2 Duties. As the Executive Director, Employee shall report to the Board and carry out the duties and exercise the powers delegated and assigned to the Employee by the Board and diligently perform duties assigned pursuant to Port policies, the laws of the United States, the State of California, and other applicable laws and regulations ("Laws"). The Executive Director shall be responsible for achieving the strategic goals and objectives established by the Board, including insuring sound financial stability, economic development, transparency, and legal compliance as a steward of the Port. The Employee shall devote all of his business and professional time, energy, and skill to the affairs of the Port; provided, however, that reasonable time for personal business, charitable or professional development activities shall be permitted, so long as such activities do not materially interfere with the Employee's performance of services under this Agreement. The Employee's services shall be performed at 530 Water Street, Jack London Square, Oakland, California unless otherwise agreed by the Board.

Terms of Employment.

3.1. Definitions. For purposes of this Agreement, the following terms shall have the following meanings:

(a) "***Accrued Compensation***" shall mean any accrued total cash compensation, any accrued benefits under any plan of the Port in which the Employee is a participant to the full extent of the Employee's rights under such plans, any accrued vacation pay, and any unreimbursed appropriate business expenses incurred by the Employee in connection with the performance of duties hereunder, all to the extent unpaid on the date of termination.

(b) "***Base Salary***" shall have the meaning set forth in Section 4.1 hereof.

(c) "***Termination Due to Death***" shall mean termination of the Employee's employment because of the death of the Employee.

(d) ***"Separation Due to Disability"*** shall mean separation of the Employee from employment with the Port because of the Employee's Disability. For purposes of this Agreement, Disability shall mean a physical or mental impairment that prevents the Employee from performing the essential functions of his employment under this Agreement, with or without reasonable accommodation, for a period of four (4) successive weeks beyond exhaustion of all accrued sick leave and exhaustion of all leave available (which leave periods may run concurrently as provided for by law) under the Americans with Disabilities Act, the California Fair Employment and Housing Act, the Family Medical Leave Act, the California Family Rights Act and any other statutorily provided leave. Such separation shall be subject to applicable California Public Employees' Retirement System requirements, if any.

(e) "***Voluntary Termination***" means termination of the Employee's employment by the voluntary action of the Employee.

3.2 Employee at Will. The Employee is an "at will" employee of the Port. As Executive Director, the Employee serves at the pleasure of the Board, and his employment may be terminated at any time for any reason by the Board by giving written notice thereof to the Employee, subject to the terms and conditions of this Agreement during its Term, including the severance provisions set forth in Section 4.4 of this Agreement. The position of Executive Director is exempt from the operation of the civil service rules of the City of Oakland.

3.3 Termination With Cause. For purposes of this Agreement and without altering the "at will" status of the Employee, "Termination With Cause" means the termination by the Board of the Employee for any one or more of the following reasons: (a) conviction or admission of, or entering of a plea of *nolo contendere* by the Employee of a felony, of any lesser offense involving a violation of his official duties, or of any unlawful act involving moral turpitude or personal gain to him (including fraud, embezzlement, or theft); (b) Employee's legal disqualification from office; (c) Employee's willful and material refusal or failure to perform his duties; or (d) determination by the Board, after a hearing of which the Employee has been given due notice, that the Employee has engaged in an act of willful

misrepresentation, self-dealing, or knowing violation of a Port policy and that such act has resulted or will result in damage to the public reputation of the Port, in financial loss to the Port, or in the Port's violation of Law.

Upon the Employee's Termination With Cause, the Port shall pay the Employee only the Employee's accrued compensation.

3.4. Termination Without Cause. Upon Termination of the Employee by the Port other than for Termination With Cause, the Port shall pay the Employee his Accrued Compensation, if any, and Severance Pay as defined by and subject to the conditions of Section 4.4 hereof.

3.5 Voluntary Termination. The Employee shall have the right to effect a Voluntary Termination. The Employee agrees to give at least ninety (90) calendar days advance written notice to the Port. During such notice period, the Employee shall continue to receive regularly scheduled Base Salary payments and benefits. Upon the effective date of a Voluntary Termination, the Port shall pay to Employee the Employee's Accrued Compensation, if any. Voluntary Termination is not subject to the severance provisions set forth in Section 4.4 below.

3.6 Termination Due to Death/Separation Due to Disability. If the Employee is Terminated Due to Death or Separated Due to Disability during the term of this Agreement, the Port shall pay the Employee or his estate, if the Employee is deceased, the Employee's Accrued Compensation, if any. Termination Due To Death or Separation Due to Disability is not subject to the severance provisions set forth in Section 4.4 below.

3.7 Timing of Termination Payments. Unless expressly provided otherwise in this Agreement, or another writing signed by the Port and the Employee, the termination payments set forth in Sections 3.2, 3.3, 3.4, 3.5, and 3.6 shall be made on the Port's normal payroll schedule.

4. Salary, Benefits, Bonus & Severance.

4.1 Base Salary. As payment for the services to be rendered by the Employee as provided in Section 2, the Port shall pay the Employee an annual "Base Salary" of three hundred and sixty-five thousand dollars ($365,000). The Employee's Base Salary shall be increased by three percent (3%) effective the first pay period containing January 1, 2020, to three hundred seventy-five thousand nine hundred and fifty dollars ($375,950), and it shall be increased by three percent (3%) effective the first pay period containing January 1, 2021, to three hundred and eighty-seven thousand two hundred twenty eight dollars and fifty cents ($387,228.50), and it shall be increased by three percent (3%) effective the first pay period containing January 1, 2022, to three hundred and ninety-eight thousand eight hundred forty-five dollars and thirty six cents ($398,845.36). The Employee's Base Salary shall be payable on an annualized basis on the Port's normal payroll schedule.

4.2 Additional Compensation and Benefits.

(a) ***Benefit Plans.*** The Employee and his dependents shall be eligible to participate in the Port's medical plan at the Kaiser rate as well as in the dental, vision, life insurance, and Disability insurance benefit plans as are now generally available or later made generally available to executive management at the Port in employee representation Unit H as created pursuant to Port Resolution No. 98182.

(b) ***Expense Reimbursement***. The Port agrees to reimburse the Employee for all reasonable, ordinary, and necessary travel and entertainment expenses incurred by the Employee in conjunction with his services to the Port consistent with the Port's reimbursement policies as they now exist or hereafter may be amended. The Port shall pay travel costs incurred by the Employee in conjunction with his services to the Port consistent with the Port's travel policy as it now exists or hereafter may be amended.

(c) ***Vacation***. The Employee shall be entitled to accrue, and to have credited to his personal account, vacation at the annual accrual rate of five (5) weeks of vacation per year, pursuant to the Port's vacation policies for exempt personnel as they now exist or hereafter may be amended.

(d) ***Management Leave***. The Employee shall be entitled to seventy-five (75) hours of paid Management Leave per year, pursuant to the Port's policy for Management Leave as it now exists or hereafter may be amended.

(f) ***Deferred Compensation.*** The Employee shall be eligible to participate in the Port's deferred compensation plan ("457 Plan"), through his own contributions and under the same terms of the 457 Plan applicable to other Port employees.

(g) ***Retirement.*** The Employee shall be eligible to participate in the California Public Employees' Retirement System according to applicable California law, to include the California Public Employees' Pension Reform Act of 2012.

(h) ***Bonds.*** The Port shall pay for or provide any fidelity or other bonds required of the Employee in his capacity as the Port's Executive Director under any Laws.

4.3 Annual Additional Compensation Incentive. The Employee shall be eligible to potentially receive additional compensation up to a maximum of 8% of his Base Salary ("additional compensation"). Such additional compensation will be awarded based upon performance measures and objectives to be agreed upon by the Parties and the Employee's attainment of those measures and objectives as determined by the Board in its good faith discretion. Any additional compensation provided to the Employee shall not affect the Employee's Base Salary.

4.4 Severance Provisions. In the event the Employee's employment is terminated by the Port other than Voluntary Termination, Termination With Cause, Termination Due to Death, or Separation Due to Disability before the end of the Term of this Agreement, the Port shall pay to the Employee a severance payment consisting of a lump-sum payment in an amount equal to the monthly Base Salary then in effect multiplied by the number of months remaining in the Term of this Agreement, but not more than twelve (12) months. The payment of any amounts pursuant to this Subsection is subject to the Employee's execution of a Release Agreement, the form of which is attached hereto as Exhibit A.

5. Proprietary Information. Contemporaneously with the execution of this Agreement, the Employee agrees to enter into an "Employee Nondisclosure Agreement" in a form approved by the Port Attorney. The Employee Nondisclosure Agreement shall provide that Employee shall not disclose proprietary and confidential information for a period during employment and after termination.

6. *Abuse of Office.*

6.1 Notwithstanding anything in this Agreement, if the Employee is convicted of a crime involving an abuse of his office or position, he shall fully reimburse the Port for the cost of the following items:

(a) leave salary paid to the Employee pending an investigation of the crime he is convicted of;

(b) funds for the legal criminal defense of the Employee for the crime he is convicted of;

(c) any cash settlement related to the termination of Employee's Agreement, regardless of the terms of his Agreement; and

(d) any payments provided to the Employee that were not agreed upon in this Agreement.

7. Miscellaneous.

7.1 Waiver. Any waiver of the breach of any provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach of the same or other provision hereof.

7.2 Expiration of Agreement. Unless extended in writing by the Parties hereto or terminated for any reason under this Agreement, the terms and conditions of this Agreement shall expire at midnight on November 13, 2022.

7.3 Headings. The section headings used in this Agreement are intended for convenience of reference and shall not by themselves determine the construction or interpretation of any provision of this Agreement.

7.4 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California applicable to contracts entered into and wholly to be performed within the State of California by California residents.

7.5 Arbitration. Any controversy or claim arising out of, or relating to, this Agreement or the breach of this Agreement shall be settled by arbitration by, and in accordance with, the applicable National Rules for the Resolution of Employment Disputes of the American Arbitration Association or such other alternative dispute resolution procedure as the parties shall mutually agree upon. Judgment upon an award rendered by any arbitrator as a result of this process may be entered in any court having jurisdiction. It is agreed that the arbitrator, in his/her discretion, and consistent with the rules of the American Arbitration Association or other alternative dispute resolution body, may assess: (a) against a party, or among the Parties, the arbitrator's compensation, if any; and, (b) for the prevailing party, attorneys' fees, except as otherwise required by law. Arbitration hearings shall be held in Oakland, California unless otherwise agreed to be the Parties. The provisions of California Code of Civil Procedure Section 1283.05 shall apply to any arbitration conducted pursuant to this subsection.

7.6 ***Survival of Obligations***. This Agreement shall be binding upon and inure to the benefit of the executors, administrators, heirs, successors, and assigns of the Parties; provided, however, that except as herein expressly provided, this Agreement shall not be assignable either by the Port (except to an affiliate or successor of the Port) or by the Employee without the prior written consent of the other party.

7.7 ***Counterparts***. This Agreement may be executed in one or more counterparts, all of which taken together shall constitute one and the same Agreement.

7.8 ***Withholding***. All sums payable to the Employee hereunder shall be reduced by all federal, state, and local taxes as well as other withholdings and similar taxes and payments as required by applicable Law.

7.9 ***Enforcement***. If any portion of this Agreement is determined to be invalid or unenforceable, such portion shall be revised to the extent possible, rather than voided, in order to achieve the intent of the Parties, and the remainder shall be enforced to the maximum extent possible.

7.10 ***Entire Agreement; Modifications***. Except as otherwise provided herein or in the exhibits hereto, this Agreement represents the entire understanding among the Parties with respect to the subject matter of this Agreement, and this Agreement supersedes any and all prior and contemporaneous understandings, agreements, plans, and negotiations, whether written or oral, with respect to the subject matter hereof, including, without limitation, any understandings, offer letters, agreements, or obligations respecting any past or future compensation, bonuses, reimbursements, or other payments to the Employee from the Port. All modifications to the Agreement must be in writing, signed by each of the Parties hereto, authorized by a resolution of the Board, and approved as to form and legality by the Port Attorney.

8. ***Notices.***

8.1 Notices hereunder shall be in writing and personally delivered or deposited in the U.S. Mail, first class, postage prepaid, addressed as follows:

a. Board of Port Commissioners
c/o Board Secretary
530 Water Street
Oakland, CA 94607

b. Danny W. Wan
530 Water Street
Oakland, CA 94607

IN WITNESS WHEREOF, the Parties hereto have executed this Employment Agreement as of the date set forth below.

CITY OF OAKLAND, A MUNICIPAL CORPORATION, ACTING BY AND THROUGH ITS BOARD OF PORT COMMISSIONERS:

_____

Cestra ("Ces") Butner
President of the Board

Date: _____

_____
Danny W. Wan,
Employee

EMPLOYEE:

Date: _____

THIS AGREEMENT SHALL NOT BE VALID OR EFFECTIVE FOR ANY PURPOSE UNLESS AND UNTIL IT IS SIGNED BY THE PORT ATTORNEY.

Approved as to form and
legality this ___ day of _____, 2019.

_____
Michele Heffes, Interim Port Attorney

Port Resolution No. _____
P.A. #:

EXHIBIT A

RELEASE AGREEMENT ("RELEASE")

The parties to this Release Agreement are Danny W. Wan ("WAN") and the City of Oakland, a municipal corporation, acting by and through its Board of Port Commissioners (the "PORT" or "EMPLOYER"). Capitalized terms not defined in this Release Agreement have the meanings assigned to them in the Employment Agreement between WAN and the Port.

A. Release

1. In General. Except for the rights and obligations that are specifically created by this Release Agreement, WAN hereby releases the PORT, its past and present affiliates, subsidiaries, divisions, joint ventures, predecessors, successors, insurers, assigns, consultants, subcontractors, officers, directors, officials, servants, agents, employees, representatives, attorneys, Commissioners, its employee benefit plans and the trustees, fiduciaries and administrators of those plan, and any person acting under, by, through, or in concert with any of them (together "Released Parties"), and each of them (hereinafter referred to as "Released Party"), from any and all claims and causes of action he has or may have, known or unknown, suspected and unsuspected, accrued or contingent, as of the day he signs this Release Agreement, including, but not limited to, claims and causes of action arising out of or relating to WAN's employment or separation from employment, and specifically including, but not limited to, any claims which could have been brought in a lawsuit or grievance as well as claims that the PORT: (a) has discriminated against him on the basis of age (or any other claim or right arising under the Age Discrimination in Employment Act, 29 U.S.C. §§ 621 *et seq.*), race, color, sex (including sexual harassment), national origin, ancestry, disability, religion, sexual orientation, marital status, parental status, veteran status, source of income, entitlement to benefits (including, but not limited to, entitlement to any and all leaves of absence and any reinstatement rights following such leaves), or any other status protected by local, State or Federal laws, constitutions, regulations, ordinances or executive orders; (b) has violated its personnel policies, civil service rules, handbooks or any covenant of good faith and fair dealing or breached any written or implied contract of employment between WAN and the PORT; (c) has violated public policy or common law, including, but not limited to, claims for: personal injury; invasion of privacy; retaliatory or wrongful discharge; whistle blowing; negligent hiring, retention or supervision; defamation; intentional or negligent infliction of emotional distress and/or mental anguish; intentional interference with contract; negligence; detrimental reliance; loss of consortium; and/or promissory estoppel; (d) is in any way obligated for any reason to pay WAN damages, expenses, litigation costs (including attorneys' fees), wages, bonuses, commissions, disability, retirement or welfare benefits, vacation pay and sick pay, compensatory damages, penalties, liquidated damages, punitive damages, other payments, and/or interest, except those payments specified in this Release Agreement; (e) has any

obligations or owes any compensation or payments to WAN in connection with any ideas, information, inventions, processes, procedures, systems, methods, intellectual property or other materials that WAN may have developed, produced, created, designed, modified, improved, enhanced or revised during his employment with or disclosed to the PORT; and (f) has violated any other Federal, State or local law, including but not limited to: any provision of the U.S. or state Constitutions, Title VII of the Civil Rights Act of 1964, as amended in 1991; 42 U.S.C. Section 1981; The Retirement Income Security Act; The Americans With Disabilities Act; The Family and Medical Leave Act; The National Labor Relations Act; The Fair Credit Reporting Act; The Immigration Reform Control Act; The Occupational Safety & Health Act; the Equal Pay Act and the Equal Pay Act of 2003; The Uniformed Services Employment and Reemployment Rights Act; The Worker Adjustment and Retraining Notification Act; The Polygraph Protection Act; California Family Rights Act; California Fair Employment and Housing Act; California Government Code; California Labor Code; the California Military and Veterans Code, California Unfair Competition Law; and any State or Federal consumer protection and/or trade practices act (together the released claims are referred to as "Claims").

2. No litigation. WAN agrees that the Employment Agreement provides benefits to him that may be above and beyond that to which he is otherwise entitled. WAN represents that he has initiated no legal actions, charges or claims of any type with any local, State, or Federal agency or State or Federal court against the PORT that are currently pending. Excluded from this release are any claims which cannot be waived by law, including, but not limited to, the right to file a charge with, or participate in, an investigation conducted by the Equal Employment Opportunity Commission ("EEOC"). WAN is waiving, however, his right to any monetary recovery or relief should the EEOC or any other agency pursue any claims on his behalf. WAN further agrees that, if any agency assumes jurisdiction of any complaint, claim or action against the PORT, on his behalf, regarding his, or based upon information provided by his, that he will direct that agency to withdraw from the matter or dismiss the matter with prejudice.

3. Unknown Claims. WAN understands that he is releasing Claims that he may not know about. WAN acknowledges that he later may discover facts or circumstances that may give rise to Claims that he does not now know about. Nevertheless, he hereby waives any such Claims. By entering into this Release Agreement, WAN is expressly waiving his rights under California Civil Code Section 1542, which provides as follows:

> "A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR."

B. Compliance with Covenants. WAN agrees to comply with all other terms of the Employment Agreement and the Employee Nondisclosure Agreement.

C. Confidential Information; Return of PORT Property. WAN agrees to maintain the confidentiality of all confidential and proprietary information of the PORT. WAN agrees that he will continue to comply with the terms and conditions of any confidentiality provisions to which he has already agreed, and any other applicable agreement regarding proprietary information and/or confidentiality between WAN and the PORT.

D. Acknowledgements. WAN acknowledges that he has read this Release Agreement and the Employment Agreement, understands them, and has chosen to enter them freely, without coercion and based on his own judgment.

E. Age Discrimination in Employment Act/Older Workers Benefit Protection Act Waiver; Representations. WAN understands and agrees that WAN:

1. Has up to twenty-one (21) calendar days within which to consider this Release Agreement before executing it, although WAN can sign it sooner;

2. Has carefully read and fully understands all the provisions of this Release Agreement;

3. Is receiving consideration under this Release Agreement beyond which WAN was otherwise entitled to receive;

4. Knowingly and voluntarily agrees to all the terms set forth in this Release Agreement;

5. Was advised and hereby is advised in writing to consider the terms of this Release Agreement and consult with WAN's attorney prior to executing this Release Agreement, and has done so to the extent he deems appropriate;

6. WAN has seven (7) days following execution of this Release Agreement in which to revoke this Release Agreement in writing. If WAN chooses to revoke his age discrimination claims, he must do so by submitting his written revocation in writing via email to Michele Heffes, Port of Oakland, mheffes@portoakland.com; and

7. Was advised and is advised that WAN's rights or claims that may arise after the date he signs this Release Agreement are not waived.

Dated: ___,

_____
DANNY W. WAN

CITY OF OAKLAND, a municipal corporation acting by and through its Board of PORT Commissioners,

Dated: ___,

By_____
Title_____

Approved as to form and legality
This ___ day of _____ .

_____
Port Attorney

PORT OF OAKLAND

EMPLOYEE NONDISCLOSURE AGREEMENT

THIS EMPLOYEE NONDISCLOSURE AGREEMENT (this "***Agreement***") is entered into as of November 14, 2019, by and between the **City of Oakland, a municipal corporation, acting by and through its Board of Port Commissioners** ("***we,***" **"us"** or the "***Port***"), and **Danny W. Wan** ("***you***" or the "***Recipient***"), with respect to the following facts and circumstances:

RECITALS

A. The Port has retained the Recipient as the Executive Director.

B. Recipient, in the course of his duties with the Port, will come into possession of Undisclosed Information and/or Confidential Information (as defined below).

C. The Port and Recipient hereby enter into this Agreement to protect the interests of the Port with respect to such Undisclosed Information and/or Confidential Information.

AGREEMENT

1. Nondisclosure.

Recipient acknowledges and agrees that, in the performance of the services as employee of the Port or in the preparation or contemplation thereof, Recipient may have or will have access to Undisclosed Information and/or Confidential Information. You further acknowledge that the disclosure of Undisclosed Information and/or Confidential Information to third parties may be damaging to the Port, whether or not such information has been reduced to writing or is otherwise considered a public record under California law or not. Recipient agrees that all Undisclosed Information disclosed by the Port to, or discovered by, Recipient shall be used only in performance of the Recipient's duties and all Confidential Information shall not be disclosed to a third party without express written consent of the Port. Recipient shall exercise the same standard of care to protect all Undisclosed Information as a reasonably prudent Recipient would use to protect his own proprietary data and shall protect all Confidential Information as required by law. You may disclose Undisclosed Information and/or Confidential Information to only those assistants, agents, or authorized representatives of yours who need to know such Undisclosed Information and/or Confidential Information for the purpose of carrying out your duties as an employee of the Port. You further agree to inform such persons of the confidential nature of the Confidential Information and take all necessary steps to ensure that they do not violate the terms of this Agreement.

You shall not use any Undisclosed Information and/or Confidential Information in performing work for, or for the benefit of, another employer or party. Recipient agrees to notify the Port immediately in writing if Recipient is requested to disclose any information made known to or discovered by Recipient during the performance of or in connection with Recipient's services to the Port.

If you have prepared any analyses, compilations, studies, or other documents containing Undisclosed Information and/or Confidential Information, such work shall be the property of the Port and owned solely by the Port and treated as Confidential Information subject to the terms of this Agreement. Upon the Port's request, you agree to deliver to the Port all of the Undisclosed Information and/or Confidential Information in any form belonging to the Port that you may have in your possession or control. You further agree to deliver a written statement to the Port certifying such action on your part within five (5) days after the request.

2. ***"Undisclosed Information"*** means any information disclosed to you that is not generally known to the public or to other persons, or is the subject of efforts to maintain its secrecy and has not been generally released to the public by the Port, including any Confidential Information. Such information includes, without limitation, any information about lessees or potential lessees, improvements or developments or upcoming improvements or developments, customers, suppliers, personnel, prices, rate of occupancy, marketing plans, research or development activities and plans, business plans, operating procedures, know-how and processes, discoveries and improvements of any kind, and business opportunities, or other information of a similar nature.

3. ***"Confidential Information"*** means: (a) any employee personnel, medical, or claims information not subject to disclosure under the California Public Records Act or any other state or federal law or regulation concerning employee confidential information; (b) any information that is part of any an attorney-client privileged communication; or, (c) proprietary or other trade secret information. Confidential Information shall also include any ideas, intellectual properties, services, systems, markets, strategy, software, technical data, designs, drawings, trade secrets, concepts, copyrights, patents, trademarks, and any related applications. Information shall be considered Confidential Information if it fits the definition set forth herein even though such information has been disclosed to one or more third-parties pursuant to a joint venture agreement or other agreements entered into by the Port. Information conveyed to you as part of a communication between you and the Port's attorney, contract attorney, employee or consultant retained as part of any legal proceedings regarding any legal advice, legal proceedings, litigation or settlement shall be Confidential Information.

4. ***Ownership and Acknowledgment***. All Undisclosed Information and/or Confidential Information, including any intellectual properties, and any information produced, compiled or derived from Undisclosed Information and/or Confidential Information, shall remain and become the sole and exclusive property of the Port. No rights or licenses are implied or granted to you by this Agreement, including, but not limited to, all such trade secrets, business practices or developments and those arising under any of the Port's trade secrets, business practices or current or upcoming improvements or developments. The Port has not, at any time, made any express or implied representation or warranty as to the accuracy or completeness of the Undisclosed Information and/or Confidential Information, and the Port hereby expressly disclaims any and all liability that may be based on Confidential Information and/or Undisclosed Information, including possible errors or omissions of such Undisclosed Information and/or Confidential Information. You agree not to rely solely on the Undisclosed Information and/or Confidential Information in making your decision regarding a potential business relationship between us.

5. ***Equitable Relief***. You acknowledge that unauthorized disclosure or use of Undisclosed Information and/or Confidential Information could cause great or irreparable injury to the Port and that monetary compensation would not afford adequate relief or that it would be extremely difficult to ascertain the amount of compensation which would afford adequate relief. Therefore, in the event of any unauthorized disclosure or use of Undisclosed Information and/or Confidential Information, the Port will be entitled to the immediate remedy of a temporary restraining order, preliminary injunction, or other form of injunctive or equitable relief without the necessity to post bond, in addition to any other remedies the Port might be entitled to at law.

6. ***Governing Law; Consent to Jurisdiction***. California law will govern the validity and interpretation of this Agreement and jurisdiction and/or venue of any action involving the validity, interpretation, or enforcement of this Agreement and its terms or involving a claimed breach, shall exist exclusively in the California Superior Court for the County of Alameda or the U.S. District Court of the Northern District of California, City and County of San Francisco. Both parties hereby submit to the jurisdiction and venue of said court.

7. ***Notices***. Any notice required by, or made in connection with, this Agreement shall be in writing and shall be deemed to have been duly given on the date of delivery, if delivered in person, or forty-eight (48) hours after mailing if mailed by certified or registered mail, postage prepaid, return receipt requested, or the day after delivery to a recognized overnight courier, to the address set forth under the name of the relevant party at the signature page below.

8. ***Entire Agreement***. This Agreement constitutes the entire agreement between the parties relating to its subject matter and supersedes any and all prior and contemporaneous agreements, representations, and understandings of the parties, whether written or oral, regarding such matters.

IN WITNESS WHEREOF, the parties hereto have executed this Employee Nondisclosure Agreement as of the date and the year first above written.

CITY OF OAKLAND, A MUNICIPAL CORPORATION, ACTING BY AND THROUGH ITS BOARD OF PORT COMMISSIONERS:

RECIPIENT:

_____
Cestra ("Ces") Butner
President of the Board

_____
Danny W. Wan

THIS AGREEMENT SHALL NOT BE VALID OR EFFECTIVE FOR ANY PURPOSE UNLESS AND UNTIL IT IS SIGNED BY THE PORT ATTORNEY.

Approved as to form and legality this day of November, 2019.

_____
Michele Heffes
Interim Port Attorney

P.A. # _____