



**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

**RESOLUTION APPROVING AND AUTHORIZING THE
EXECUTIVE DIRECTOR TO ENTER INTO AN
AGREEMENT WITH THE EAST BAY REGIONAL PARK
DISTRICT FOR MITIGATION OF IMPACTS
ASSOCIATED WITH THE PERIMETER DIKE
PROJECT FOR A PERIOD OF TWO YEARS AND AN
AMOUNT NOT TO EXCEED \$78,750.**

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report Item No. 6.2, dated November 21, 2019 ("Agenda Report") and related agenda materials, has received the expert testimony of Port of Oakland ("Port") staff, and has provided opportunities for and taken public comment; and

WHEREAS, that in acting upon this matter, the Board has exercised its independent judgment based on substantial evidence in the record and adopts and relies upon the facts, data, analysis, and findings set forth in the Agenda Report and in related agenda materials and in testimony received; and

WHEREAS, the Port is in the process of planning and implementing improvements to the Airport Perimeter Dike at Oakland International Airport ("Perimeter Dike Improvements Project"). As part of the Perimeter Dike Improvements Project, a portion of the California Clapper Rail habitat may be impacted; and

WHEREAS, the Port and East Bay Regional Park District ("District") have negotiated the terms of a mitigation agreement whereby the Port will fund two (2) years of the District's predator management services to mitigate the impacts to the California Clapper Rail habitat ("Agreement");

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

SECTION 1. Based upon the information contained in the Agenda Report and testimony received, the Board hereby finds and determines that the proposed actions were reviewed in accordance with the requirements of the California Environmental Quality Act ("CEQA"). The Port, as lead agency for CEQA, prepared a draft Initial Study/Mitigated

Negative Declarative ("IS/MND") to evaluate potential impacts from the Perimeter Dike Improvements Project and circulated it for public review from September 16, 2015 to October 16, 2015. The Final IS/MND was adopted by the Board on December 17, 2015 (Ordinance No. 4359) and the Notice of Determination was filed with the Alameda County Clerk's Office on December 18, 2015. The Addendum to the IS/MND was completed in September 2017 (SCH No. 2015092045) and the Second Addendum to the IS/MND was completed in April 2018 (SCH No. 2015092045). These documents discussed potential impacts to Clapper Rail habitat. The Port received a United States Fish and Wildlife Service Biological Opinion (Corps File No. 2000-252600S) on November 5, 2018, which included the suggested predator management mitigation measure for the Clapper Rail.

SECTION 2. Based upon the information contained in the Agenda Report and testimony received, the Board hereby authorizes the Executive Director of the Port ("Executive Director") to enter into the Agreement with the District for predator management for a term not to exceed two (2) years and for an amount not to exceed \$78,750, subject to approval 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. 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.