

AGENDA REPORT

Resolution: Adoption of a Resolution Necessary to Appoint Michele Heffes as the Port Attorney Effective December 12, 2019, at an Annual Salary of \$323,655 Plus Benefits. (Finance & Admin.)

MEETING DATE: 12/12/19

AMOUNT: \$497,000 (estimated annual cost including benefits)
Operating Expense

PARTIES INVOLVED: Michele Heffes

SUBMITTED BY: Sara Lee, Chief Financial Officer

APPROVED BY: Danny Wan, Executive Director

ACTION TYPE: Resolution

EXECUTIVE SUMMARY

Port of Oakland ("Port") staff requests that the Board of Port Commissioners ("Board") adopt the resolution necessary to appoint Michele Heffes as the Port Attorney effective December 12, 2019 at an annual salary of \$323,655 plus benefits.

BACKGROUND

Article VII, Section 706(20) of the Oakland City Charter provides that the Board of Port Commissioners shall have the complete and exclusive power to appoint a Port Attorney. Similarly, Article X, Section 1 of the Board's "By-Laws and Administrative Rules, Board of Port Commissioners" ("By-Laws") provides that the Board is vested with the authority to "appoint the Port Attorney by resolution." The Port Attorney is the attorney for the Port of Oakland, acting by and through the Board, and is charged with providing legal counsel to the Board as well as internal staff on a broad range of complex business, financial, governance, and other legal matters. Article XII, Section 2 of the By-Laws provides in pertinent part that the Board "reserves to itself the power and duty to appoint and hire the "Direct-Reporting Officers," which shall include...the Port Attorney...and to prescribe and fix their duties, authority, and compensation...."

On July 22, 2019, the Board appointed former Port Attorney Danny Wan as Acting Executive Director due to the retirement of Executive Director Chris Lytle. Upon Mr. Wan's appointment as Acting Executive Director, the Board immediately appointed Assistant Port Attorney Michele Heffes as Acting Port Attorney and provided her temporary supplemental

compensation of 6% for the duration of the acting appointment. Thereafter, effective October 1, 2019, the Board appointed Mr. Wan as Interim Executive Director, and it also appointed Ms. Heffes as the Interim Port Attorney at an annual salary of \$323,655 plus benefits.

At its November 14, 2019, special meeting, the Board appointed Danny Wan as the Port's Executive Director. To back fill the vacant Port Attorney position, the Board interviewed two internal candidates, and based on the interviews, the Board wishes to appoint Michele Heffes as the Port Attorney. Therefore, it is recommended that the Board adopt the resolution necessary to effectuate Ms. Heffes appointment as the Port Attorney.

ANALYSIS

Prior to her appointment first as the Acting Port Attorney and then as the Interim Port Attorney, Ms. Heffes served as the Assistant Port Attorney since April 2015. In her role as Assistant Port Attorney, Ms. Heffes functioned as the principal assistant to the Port Attorney, providing legal advice and assistance as well as daily oversight of the Deputy Port Attorneys and paralegals within the Office of the Port Attorney. Prior to being appointed as the Assistant Port Attorney, Ms. Heffes also served as a Deputy Port Attorney V and in other Deputy Port Attorney roles dating back to 1992.

Ms. Heffes is an experienced attorney and has provided expert legal advice in several practice areas, including but not limited to, insurance, environmental, and real estate matters. During her tenure with the Port Attorney's Office, Ms. Heffes has been instrumental in successful cost recovery efforts involving environmental litigation and claims. Ms. Heffes has also provided counsel to the Board and Port staff on various complex real estate matters at the airport and seaport.

Ms. Heffes previously acted as Port Attorney from May 2012 through December 2012. During her tenure at the Port, which began in 1988, Ms. Heffes has acquired a substantial amount of institutional knowledge and history that has proved helpful for the Port Attorney's Office as well as other Port departments.

Ms. Heffes possesses a Bachelor of Science degree in Nuclear Engineering from the University of California at Berkeley, and she received her law degree from the University of San Francisco.

As the Port Attorney, Ms. Heffes will be compensated at an annual salary of \$323,655 plus benefits, and her appointment will be effective December 12, 2019.

BUDGET & STAFFING

The annual cost to the Port including benefits, is approximately \$497,000.

MARITIME AVIATION PROJECT LABOR AGREEMENT (MAPLA)

The matters contained in this Agenda Report do not fall within the scope of the Port of Oakland Maritime and Aviation Project Labor Agreement (MAPLA) and the provisions of the MAPLA do not apply.

STRATEGIC PLAN

The action described herein would help the Port achieve the following goals and objectives in the Port's Strategic Business Plan (2018-2022). <https://www.portofoakland.com/wp-content/uploads/Port-of-Oakland-Strategic-Plan.pdf>

Goal: Pursue Employee Excellence

LIVING WAGE

Living wage requirements, in accordance with the Port's Rules and Regulations for the Implementation and Enforcement of the Port of Oakland Living Wage Requirements (the "Living Wage Regulations"), do not apply because the requested action is not an agreement, contract, lease, or request to provide financial assistance within the meaning of the Living Wage Regulations.

SUSTAINABILITY

Port staff have reviewed the Port's 2000 Sustainability Policy and did not complete the Sustainability Opportunities Assessment Form. There are no sustainability opportunities related to this proposed action because it does not involve a development project, purchasing of equipment, or operations that presents sustainability opportunities.

ENVIRONMENTAL

The matters contained in this Agenda Report were reviewed in conjunction with the requirements of the California Environmental Quality Act (CEQA) and the Port's CEQA Guidelines. The requested Board actions are not projects pursuant to CEQA Guidelines, Sections 15060(c)(3) and 15378(b)(2), and no environmental review is required.

GENERAL PLAN

This action does not change the use of any existing facility, make alterations to an existing facility, or create a new facility; therefore, a General Plan conformity determination pursuant to Section 727 of the City of Oakland Charter is not required.

OWNER-CONTROLLED INSURANCE PROGRAM (OCIP)

The Owner Controlled Insurance Program (OCIP) does not apply to the matters addressed by this Agenda Report as they are not capital improvement construction or design projects.

OPTIONS

1. The Board adopt the Resolution Necessary to Appoint Michele Heffes as the Port Attorney Effective December 12, 2019, at an Annual Salary of \$323,655 plus benefits.
2. The Board not adopt the Resolution Necessary to Appoint Michele Heffes as the Port Attorney Effective December 12, 2019, at an Annual Salary of \$323,655 plus benefits.

RECOMMENDATION

Port staff recommends that the Board adopt the Resolution Necessary to Appoint Michele Heffes as the Port Attorney Effective December 12, 2019, at an annual salary of \$323,655 plus benefits.