

MA

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

**RESOLUTION APPROVING A PROFESSIONAL SERVICES
AGREEMENT WITH MOFFAT & NICHOL IN AN AMOUNT NOT TO
EXCEED \$1,020,500 FOR DESIGN AND CONSTRUCTION
SUPPORT SERVICES FOR THE BERTHS 55 THROUGH 59 WHARF
UPGRADES PROJECT.**

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report Item No. 2.6, dated December 17, 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, 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 hereby finds and determines that:

A. The proposed action was reviewed in accordance with the California Environmental Quality Act ("CEQA") and CEQA Guidelines. This project is categorically exempt from the requirements of CEQA pursuant to Section 15301, Existing Facilities, which exempts the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment or topographic features, involving negligible or no expansion of existing or former use.

B. The Professional Services Agreement ("Agreement") with **Moffat & Nichol ("Moffat")** 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 secure such services from **Moffat**.

Section 2. The Board hereby:

A. Approves the Agreement with **Moffat** to provide professional services for design and construction support services for the Berths 55 through 59 Wharf Upgrades Project for an amount not to exceed \$1,020,500, and as further described in the Agenda Report.

B. Authorizes the Executive Director of the Port ("Executive Director") to execute such Agreement, subject to approval as to form and legality by the Port Attorney.

C. Authorizes the Executive Director to make such additions, modifications, or corrections as necessary to issue the Agreement or to correct errors, subject to the limitations set forth herein and provided that any such addition, modification, or correction does not materially differ from the terms and conditions set forth herein and 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. 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 4. This resolution shall be effective immediately upon adoption by the Board.