

## AGENDA REPORT

**Resolution:** Authorize the Executive Director to Supplement the Agreement with Elation Systems, Inc. to Add an Additional One Year Option Term, and Increase the Not to Exceed Amount by \$56,500 for a total not to exceed amount of \$267,500 for the Web-Based Labor Compliance/Workforce Tracking System and Living Wage Compliance System (**Social Responsibility Division**)

**MEETING DATE:** 4/22/2021

**AMOUNT:** Not to Exceed \$56,500 (for an additional one-year option term, total agreement not to exceed \$267,500)

**PARTIES INVOLVED:** Elation Systems, Inc.  
Rick Shi, President

**SUBMITTED BY:** Amy Tharpe, Director of Social Responsibility

**APPROVED BY:** Danny Wan, Executive Director

**ACTION TYPE:** Resolution

### **EXECUTIVE SUMMARY**

The Social Responsibility Division requests that the Board adopt a resolution authorizing the Executive Director to supplement the agreement with Elation Systems, Inc. to add an additional one-year option to the term of the existing Web-Based Labor Compliance/Workforce Tracking System and Living Wage Compliance System, for a additional amount not to exceed of \$56,500 bringing the total agreement not to exceed amount of \$267,500.

### **BACKGROUND**

Since 2006, the Social Responsibility Division (SRD) has utilized a Web Accessed Monitoring System (WAMS) for the purpose of monitoring payments of prevailing wages to all personnel working on Port public works contracts, including tenant projects, under state and federal regulations.

In October 2016, a Request for Proposals (RFP) for WAMS software was issued and Elation Systems (ES) was the staff recommended awardee. On February 23, 2017, the Board approved an agreement with ES for the provision of a Web Based Labor Compliance/Workforce Tracking System and Living Wage Compliance System for a period of two years with a one-year renewal option for a total amount not to exceed \$148,000. The one-year renewal option period began May 22, 2019 and ended May 21, 2020. On May 9,

2019, the Board approved System Enhancements to the Living Wage Module, and an additional one-year option which was exercised and began on May 22, 2020 and will end on May 21, 2021. In May 2019, the Board approved funding system enhancements to the living wage module totaling \$15,000 and \$48,000 for an additional one-year term. The aggregate compensation for ES is a not to exceed amount of \$211,000 from inception to present.

Since May 2017, SRD has used Elations Systems (ES) as its WAMS software. ES customized the system to meet the Port's needs as well as developed a new living wage compliance module to collect living wage records and to monitor compliance from Port tenants, consultants and OAK concessionaires (users). Over time, staff has worked with ES to refine the system based on users' feedback. The system accommodated the new OAK concessionaires allowing for seamless transmission of living wage records and data collection as well as daily tracking and reporting. Davillier-Sloan, Inc., the Port's MAPLA consultant, also accesses the system to produce MAPLA statistics and reports, including MAPLA's annual report. Additionally, the system provides staff with the ability to address Port audits and respond to public records requests specifically for prevailing wage payroll and living wage records.

The ES web-based compliance management system addresses the following scope of services for the Port:

- For federal and State prevailing wage labor compliance programs and the Port's Maritime and Aviation Project Labor Agreement (MAPLA), it collects, maintains, and analyzes payroll and labor data for all prime contractors and their subcontractors working on Port construction public works projects. In addition, the system provides reporting and administrative capabilities that identify, track and alert staff of discrepancies in payroll reporting. The system also provides comprehensive workforce reporting and tracking.
- For the Living Wage program (the City Charter section 728), and Port Ordinances requiring specific Port service contractors to pay their non-exempt employees a living wage rate (or possibly minimum wage), the system captures the weekly and quarterly payroll reports required to monitor the wages paid to the employees. It also provides analytical reports on compliance with living wage and other City Charter and Port Ordinances.
- Each concessionaire at the Oakland International Airport is obligated to participate in the Airport Concessions Labor Pool Program. This program requires all concessionaires to offer employment to qualified, displaced badged concession employees by seniority and by job classification, prior to offering employment to other potential employees. This system provides the Port with a web-based solution to track and report on these displaced employees which allows staff to support concessionaires' hiring processes.
- For other Port programs/policies, such as the Port Non-Discrimination and Small Local Business Utilization Policy and Federal Disadvantaged Business programs, the web-based solution collects, analyzes, and reports payroll data to ensure

compliance with said programs. The system also produces reports to show local, DBE and ACDBE attainment and utilization levels.

### **ANALYSIS**

Staff is requesting a supplemental agreement for one year to accommodate the need to maintain accurate reporting, and thus compliance, during COVID by tenants, concessionaires and construction firms while staff prepares a solicitation to be released in Fall, 2021. Many of the existing WAMS users are working remotely with significant staff transition which will make it difficult to change systems during the pandemic. Specifically, staff recommends a supplemental one-year term to the agreement to become effective May 22, 2021 and end on May 21, 2022.

### **BUDGET & STAFFING**

The requested supplemental to the agreement will include an additional year with and increase in not to exceed amount of \$56,500.

There is no impact as the cost of the extension will be absorbed in the FY 2020-2021 SRD budget and included in the SRD FY22 budget request.

The agreement extension authorization has no impact on staffing.

### **MARITIME AVIATION PROJECT LABOR AGREEMENT (MAPLA)**

The matters contained in the 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).

Goal C: Objective 1: Comply with all federal, state, local and Port workforce mandates.

### **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 to this agreement as the service provider does not employ 21 or more employees working on Port-related work. However, service

providers will be required to certify that should living wage obligations become applicable, service providers shall comply with 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**

CEQA Determination: This action to amend and extend the agreement with Elation Systems, for the Web Based Compliance/Workforce Tracking System and Living Wage Compliance System was reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA). The general rule in Section 15061(b)(3) of the CEQA Guidelines states that CEQA applies only to activities that have a potential for causing a significant effect on the environment. It can be seen with certainty that there is no possibility that computer software data collection and reporting services will result in a significant effect on the environment, and therefore this action is not subject to CEQA. No further environmental review is required.

## **GENERAL PLAN**

This project is for professional services and will not directly include any alteration of property.

## **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 projects.

## **OPTIONS**

1. Authorize the Executive Director to supplement the agreement with ES, to provide Web-Based Compliance/Workforce Tracking System and Living Wage Compliance System for an additional one-year option term and an increase of \$56,500 for a total amount not to exceed of \$267,500, as further described in the Agenda Report. This is the recommended action.
2. Do not authorize the additional one-year option term with ES. This option would leave the Port SRD Contract Compliance lesser efficiency in monitoring and compliance with prevailing and living wage requirements including the reduced accessibility for the MAPLA annual report coupled with the inability to respond to audits and public records requests specifically for prevailing wage payroll and living wage records.

## **RECOMMENDATION**

Staff recommends that the Board authorize the Executive Director to supplement the agreement with ES, to provide Web-Based Compliance/Workforce Tracking System and Living Wage Compliance System for an additional one-year option term and an increase of \$56,500 for a total amount not to exceed of \$267,500, as further described in the Agenda Report.