

EXHIBIT A TO PORT ORDINANCE NO. 4552

BY-LAWS AND ADMINISTRATIVE RULES

BOARD OF PORT COMMISSIONERS

ARTICLE I.

General Provision.

Under the Charter of the City of Oakland ("Charter"), the Board of Port Commissioners ("Board") shall have the complete and exclusive power, and it shall be its duty for and on behalf of the City of Oakland ("City"), to undertake the actions specified in subsections (1) through (30) of Section 706 of the Charter or as otherwise provided in the Charter, including complete and exclusive control and management of the Port Department.¹ Subject only to the provisions of the Charter and applicable superior laws of the State of California or of the United States of America ("Law"), these By-Laws and Administrative Rules ("By-Laws") shall govern the organization of the Port Department, proceedings of the Board, and the conduct of its business. The Board reserves to itself all of its Charter powers to carry out its duties and obligations unless any such power is expressly delegated as set forth in these By-Laws.

ARTICLE II.

Members and Officers - Elections.

1. The Board shall consist of seven Commissioners, including a President, First Vice President, and Second Vice President.

2. The President, First Vice President, and Second Vice President shall be elected by majority vote of the Board from among members of the Board at the first meeting held during the month of July in each year. Unless the Board adopts a different election method by unanimous vote, the nominations and elections for each of the three Board officers shall be conducted in turn separately in the following order: President, First Vice-President, and Second Vice-President. Candidates not prevailing in the election for one office may be nominated and voted on for another office. The current

¹ The Port Department is otherwise known as the Port of Oakland or the City of Oakland, a municipal corporation, acting by and through its Board of Port Commissioners ("Port").

President shall call for nominations from the floor, including self-nominations, which shall be recorded in the order received, and which shall not require a second. When nominations for each office are completed, voting on each nominee shall be conducted by voice vote in the order the nominations were received and the first nominee to receive a majority vote shall be elected. At the conclusion of the election of all officers, the Board will ratify the results by resolution.

ARTICLE III.

Meetings.

1. Regular meetings of the Board shall be held in the Port Building, 530 Water Street, in the City of Oakland, unless the Board designates and notices another location pursuant to Article III, Section 3 hereof. The Board shall set a regular meeting schedule by resolution or motion which may be amended from time to time by the Board. The formal regular meeting, at which motions, resolutions, or ordinances may be adopted and public hearings may be conducted, shall be held in the Board Room, located on the Second Floor of the Port Building (with the closed session portion of the meeting held in the adjacent Courtyard Conference Room), unless another location has been selected, and shall commence upon the Board Roll Call establishing a quorum of the Board in accordance with Article III, Section 2 hereof.

2. Four Board Commissioners shall constitute a quorum for the transaction of business, and four affirmative votes shall be required to pass any ordinance, resolution, or motion, or such other greater numbers of votes as are required by the Charter or other applicable Law.

3. Whenever a meeting of the Board shall be held at a place other than the Board Room, in addition to other applicable legal requirements, public notice of the place of such meeting and subjects to be discussed shall be posted in the public notice cabinet in the lobby of the Port Building for a period prior to such meeting as required by Law.

4. The provisions of Title 5, Division 2, Part 1, Chapter 9 of the Government Code of the State of California ("Ralph M. Brown Act"), relating to the meetings of legislative bodies of local public agencies, including the conduct of closed sessions, shall apply with respect to the meetings of the Board. In the event of any conflict between these By-Laws and the Ralph M. Brown Act, the latter shall

control and apply. Additionally, meetings of the Board will be conducted pursuant to applicable provisions of the Port of Oakland Sunshine Ordinance (Ordinance No. 4265, as it may be amended or superseded, "Sunshine Ordinance"); provided, however, the failure to strictly follow the Sunshine Ordinance shall not be cause for invalidation of any Board action, resolution, or ordinance. In the event of any conflict between these By-Laws and the Sunshine Ordinance, the former shall control. Finally, meetings of the Board will be conducted pursuant to the Rules for Public Participation at Meetings of the Board of Port Commissioners and Standing Committees adopted by Port Ordinance No. 4127, as it may be amended from time to time ("Rules for Public Participation"). In the event of any conflict between these By-Laws and the Rules for Public Participation, the former shall control and apply.

5. The order of business at meetings of the Board, including the placement of the closed session portion of meetings, shall be established by the President in his or her reasonable discretion in order to facilitate the orderly and efficient conduct of business, subject to the requirements of Law.

ARTICLE IV.

Proceedings of the Board.

1. All actions taken by the Board shall be by resolution, except when, pursuant to the provisions of the Charter or Law, it is necessary to act by ordinance. The Board's adoption of a motion shall be the means by which the Board implements parliamentary procedure at meetings or instructs the Port staff, but in no event shall the adoption of a motion bind the Port on any matter, contractual or otherwise, with regard to any third party. All instructions to investigate, to draft any resolution or ordinance, to conduct studies or to propose recommendations on any subject area shall be made only to the relevant Direct-Reporting Officer and by way of a motion of the Board as a whole or of a committee of the Board with subject-matter jurisdiction duly constituted under these By-Laws.

2. To constitute an ordinance of the Board, an action shall comply with the requirements of an ordinance set forth in Article VII of the Charter. Ordinances may be introduced and passed at regular or special meetings of the Board, except as otherwise required by applicable Law. Unless otherwise provided in the ordinance, ordinances shall take effect on the date of their final adoption and shall contain

language substantially in the form of the following: "This Ordinance shall take effect on the date of its final adoption; provided, however, that if a petition protesting the adoption of this Ordinance is timely and duly submitted to the elections official of the City of Oakland in the manner required under California Elections Code § 9237, the effective date of this Ordinance shall be suspended, and all actions authorized by this Ordinance shall be null and void." Failure to include in the ordinance language substantially in the form above-quoted shall not be grounds for invalidating the ordinance and the ordinance shall be deemed to become effective upon the date of its final adoption unless a petition protesting the adoption of the ordinance is timely and duly submitted to the elections official of the City of Oakland in the manner described above.

3. To constitute a resolution of the Board, an action shall be evidenced by a document entitled "Resolution" and signed or initialed by the Port Attorney (which signature or initial may be in electronic form authorized by the Port Attorney).

4. A record of the vote on any ordinance, resolution, or motion shall be made by "ayes," "noes," "abstained," "excused," or "recused," in the minutes of the Board. Any recusal of or by a member of the Board shall be recorded along with the stated cause or reason for the recusal.

5. The proceedings of the Board shall be carried on in such manner and with such dispatch as may be mutually agreeable to the members of the Board. To the extent practicable, *American Institute of Parliamentarians Standard Code of Parliamentary Procedure* (2012) as it may be updated from time to time ("Parliamentary Procedures") will govern the parliamentary procedures of the Board, except to the extent any such Parliamentary Procedure is inconsistent with these By-Laws, any Board-adopted rules and procedures, the Charter, or Law. No resolution or ordinance shall be considered, or other action taken until the same has been duly moved, seconded, and carried, individually or as a group. All ordinances and resolutions passed by the vote of the members of the Board present at any meeting shall be deemed to have been moved, seconded, and passed in due form. No action of the Board shall be invalidated by reasons of noncompliance with the Parliamentary Procedures.

6. Except as otherwise may be required by the Charter, Law or resolution or ordinance of the Board, whenever the Board has approved and authorized execution for and on

behalf of the Board of any contract, the Executive Director shall be authorized to execute, and the Secretary to attest, if necessary, the contract for and on behalf of the Board subject to the approval of the Port Attorney as to form and legality.

7. No contracts, including any contract with respect to any lease, development, or use of any Port property, shall be binding on the Board or the Port unless approved by resolution, or by an ordinance when an ordinance is required by the Charter or Law, or unless otherwise provided by Port ordinance or these By-Laws. Except as expressly provided in the written contract approved by resolution or ordinance of the Board, or in the resolution or ordinance itself, no agreement approved by the Board may be modified except in accordance with such written contract, a resolution, or an ordinance.

8. Approval of any building permit for building and construction on Port-owned property by a Port tenant (or subtenant) or by a licensed contractor for which the Executive Director recommends a determination of exemption from the California Environmental Quality Act ("CEQA") may be presented for Board consideration and action as part of a blanket resolution covering all such permits to be considered at that Board meeting and will not require presentation of an Agenda Report for the individual or collective permit items. Building permits for work included in a project which has previously been given approval, including any approvals under CEQA, by resolution or ordinance of the Board may also be included in said blanket resolution without the presentation of a separate Agenda Report; provided the work is consistent with project design, as approved by the Board.

ARTICLE V.

Committees.

1. The Board may at any time convene as a Committee of the Whole and may designate by resolution standing committees of its members. The Board hereby delegates to the President the authority to designate and appoint the members of the standing committees and the chairs of such committees (which members shall total no more than three including the chair).

2. The President or Board (by resolution) may from time-to-time designate and appoint members and chairs of such other ad hoc committees consistent with the Ralph M.

Brown Act to assist in the transaction of the business of the Board.

3. Each committee shall be advisory to the Board. It shall investigate and formulate recommendations on matters referred to it by the President or by the Board. In the course of its investigation and formulation of recommendations to the Board, it shall consult with the Executive Director or, to the extent necessary, other Direct-Reporting Officers. Each committee shall meet from time-to-time, as its responsibilities require and upon the call of the committee's chair. Each committee shall report to the Board at a regular or special meeting a summary of all matters considered and its findings and recommendations thereon.

ARTICLE VI.

President.

1. The President shall be the presiding officer of the Board, shall preside at all meetings of the Board, and shall have the right to vote on all questions. The President shall see that the laws of the City pertaining to the activities of the Port and the actions of the Board are faithfully executed, and shall exercise such other powers and perform such other duties consistent with the office of the Presidency as may be conferred upon the President by the Board, the Charter, or otherwise by Law.

2. The President may, subject to legal requirements, call meetings of the Board and shall call a meeting upon the written request of three Commissioners. The President, in consultation with the Executive Director, may withdraw from consideration any item appearing on the Board Agenda.

3. In the absence of any Board member of a standing committee, if such a committee has been established, the President may designate another Commissioner to substitute for the absent member for that meeting.

4. The President shall sign all ordinances and such contracts, drawings, plans, and other documents required to be signed for and in the name of the Board unless otherwise provided for in these By-Laws, resolution, or ordinance of the Board.

ARTICLE VII.

First Vice President and Second Vice President.

The First Vice President shall, in case of the absence, disability, resignation, or removal of the President, act in the President's place and stead and perform the duties of such office. In case of the absence, disability, resignation, or removal of both the President and First Vice President, the Second Vice President shall act in the place and stead of the President or First Vice President.

ARTICLE VIII.

Secretary.

1. The Board shall appoint the Secretary of the Board by resolution. The Secretary shall personally, or through the Assistant Secretary, attend all meetings of the Board and keep a true and correct record of all of its proceedings and the minutes of all meetings, which minutes shall include the number and title of all resolutions passed by the Board and a record of the vote thereon. The minutes shall also include the title of all ordinances passed by the Board, the number of the ordinance at the time of its final adoption, and a record of the vote thereon upon its passage to print and final adoption. Original copies of minutes, bearing the signature of the Secretary (which signature may be in electronic form authorized by the Port Attorney) and approval stamp of the Board, shall, following approval, be kept in permanent volumes entitled "Minute Book." Copies of such approved minutes shall also be made and kept in an electronic format available to the public.

2. The Secretary shall keep intact the original copy of, and index to, all ordinances adopted by the Board. The original copy of all ordinances shall contain a record of the vote or other action of the members of the Board and shall be signed by the President, be attested by the Secretary, and bear the approval of the Port Attorney as to form and legality. The Secretary shall also cause a permanent record to be kept electronically of each ordinance. All ordinances shall be numbered in numerical order, and at all times be open to public inspection. Following the adoption of any ordinance, the Secretary shall duly certify and file a true copy thereof with the City Clerk on an annual basis.

3. The Secretary shall also keep intact the original copy of all resolutions of the Board, with a record thereon of the vote or other action, and when convenient shall keep such documents into permanent records in books entitled "Port Resolutions." The Secretary shall also cause a permanent record to be kept electronically of each resolution. All resolutions shall be numbered in numerical order.

4. The Secretary shall, whenever required, prepare copies of any ordinance or resolution, with the Secretary's certificate annexed thereto, stating that the same is a true copy duly and regularly passed by the Board on the date specified, and that the same was published and passed in the time, form, and manner required by Law, and shall furnish such other certificates for and on behalf of the Board as may be required.

5. The Secretary shall be the custodian of the official seal of the Port, and of all minutes, resolutions, and ordinances of the Board.

6. The Secretary shall, in the Secretary's official capacity, sign or attest such documents and official papers relating to the Port, and affix the official seal thereto, when and as may be directed by the Board, and perform such other duties as may be assigned to the Secretary by the Board or be required by Law.

7. The Secretary is designated by the Board as the primary officer authorized to receive claims and accept services of legal process on behalf of the Port, Board, and individual Port employees concerning Port-related business. In the absence or disability of the Secretary or Assistant Secretary, the Secretary may delegate in writing the responsibility in this Section to another Port employee. If the Secretary is not able to so delegate, the Port Attorney shall designate in writing such other Port employee to perform the duties described in this Section.

8. The Secretary shall perform such other services and assume such other responsibilities and duties as the Board may require.

9. The Secretary shall log and track all requests received by the Port under the California Public Records Act.

10. Subject to Article XII of these By-Laws, the Secretary shall have the authority to appoint one or more Assistant Secretaries to assist in the performance of duties of the Secretary and may designate and instruct any such Assistant to act or perform the duties of the Secretary in case of the Secretary's absence or disability. The Secretary shall prescribe and supervise the duties of and have the authority to assign, evaluate, reassign, release, and discipline (including, but not limited to, suspension, dismissal, and termination) any such employees appointed by the Secretary provided the exercise of such power shall be subject to Article XII of these By-Laws and any applicable Laws and employment agreements, including, but not limited to, collective bargaining agreements, Port of Oakland Personnel Rules and Procedures, and/or salary and compensation schedules adopted by the Board by Ordinance. In the absence or disability of both the Secretary and Assistant Secretary, the Secretary shall designate in writing another Port employee to act in his or her stead.

11. The Secretary shall provide assistance to other Direct-Reporting Officers and their designees in order to enhance the effectiveness, efficiency, and economy of Port operations consistent with Board policies and direction.

ARTICLE IX.

Executive Director.

1. The Board shall appoint the Executive Director by resolution. The Executive Director shall be the chief executive and administrative officer of the Port and is the Executive Director employed and appointed in accordance with Section 706(21) of the Charter. The Executive Director shall be in charge of the Port's business and properties and shall be responsible for its efficient and economical administration. The Executive Director shall, as directed by the Board, carry out its policies and projects.

2. Except for appointments reserved to the Board or delegated to another Direct-Reporting Officer, the Executive Director, for and on behalf of the Board and subject to Article XII of these By-Laws, shall have the power and it shall be his/her duty to employ and appoint (including making all permanent, temporary, and provisional appointments) such other officers, employees, and agents as may be necessary in the efficient and economical carrying out of Port functions. The Executive Director shall prescribe and fix the duties, authority, and compensation of, and have the authority to assign, evaluate, reassign, release, and discipline (including, but not limited to, suspension, dismissal, and termination) any such employees appointed by the Executive Director provided the exercise of such power shall be subject to Article XII of these By-Laws and any applicable Laws and employment agreements, including, but not limited to, collective bargaining agreements, Port of Oakland Personnel Rules and Procedures, and/or salary and compensation schedules adopted by the Board by Ordinance.

3. The Executive Director shall prepare, or cause to be prepared, estimates, plans, specifications, and drawings required for the Board, and act as purchasing agent for all the divisions of the Port.

4. The Executive Director shall enforce all resolutions and ordinances adopted by the Board relative to regulations, operation, and control of the "Port Area" (as defined in Section 706(4) of the Charter), and the operation and management of the Port and its facilities.

5. The Executive Director shall supervise and manage the construction and maintenance work authorized or ordered by the Board.

6. The Executive Director shall have and is hereby granted the delegated authority to enter into the below-listed types of short-term leases, licenses, license and concession agreements, space/use permits, or similar grants of the right of entry for use or occupancy of Port property ("Short-Term Agreements") if all of the following conditions are met: (a) the permitted use is consistent with the public trust and all applicable Law; (b) the Short-Term Agreement is made in writing and in a form approved by the Port Attorney; (c) the term is no longer than one (1) year (aggregated by including all hold-overs, extensions, and/or renewals); (d) the Short-Term Agreement identifies the specific tariffs, rates, charges, or target rents ("Standard Rent") that apply to the tenancy; and (e) the Short-Term Agreement requires the payment of at least the Standard Rent, except where the Executive Director has determined that it is reasonable in light of the proposed benefit to the Port to charge an amount that is less than the Standard Rent.

7. The Executive Director shall, without the approval of the Board, have authority to make purchases of materials, supplies, and services needed in the management and operation of Port affairs and to let contracts (including, without limitation, reimbursement agreements with parties who occupy Port property) pursuant to, and subject to the limitations of, any ordinance adopted by the Board, and as amended from time to time, pertaining to the delegation of purchasing authority and bidding or competitive purchasing requirements (Port Ordinance No. 4321, as it may be amended or superseded) ("Purchasing Ordinance").

8. The Executive Director shall have authority to declare an Emergency (as defined in the Purchasing Ordinance) and thereafter act in cases of Emergency requiring immediate action on his or her part, subject to the conditions set forth in the Purchasing Ordinance.

9. The Executive Director may from time-to-time, render such reports, estimates, or recommendations to the Board as the Executive Director may deem necessary or convenient for the proper dispatch of the business of the Port, or the furtherance of its welfare.

10. The Executive Director shall approve purchasing orders, contracts, rental and other agreements, warehouse receipts, maps and drawings, and other documents

pertaining to the business of the Port when so directed by the Board by resolution, by ordinance, or as otherwise authorized by the Charter or these By-Laws.

11. The Executive Director shall regularly inform and report to the Board the state of Port business and progress toward Port strategic goals established by the Board. The Executive Director shall also give regular updates and information to City officials, shippers, tenants, and other community representatives and persons, as may be designated by the Board. On an annual basis, the Executive Director shall issue a written annual report of the operations and financial summary of the Port for the preceding fiscal year and shall publish such report either online or in print, or both.

12. The Executive Director shall have the authority to issue, from time-to-time, Administrative Policies and Procedures ("APs") governing the conduct of the affairs of the Port Department, provided that the APs are consistent with these By-Laws, the Charter, and applicable Law.

13. The Executive Director shall personally, or through the Acting, Assistant, or Deputy Executive Director, attend all meetings of the Board and represent the Port in all official matters, unless otherwise provided for by the Board, provisions of these By-Laws, or by Law.

14. The Executive Director shall have and is hereby delegated the authority to approve for and on behalf of the Board subleases of all or portions of Port property pursuant to the terms of respective Port leases, license and concession agreements, or other Port occupancy agreements ("Leases"). The Executive Director is also delegated the authority to approve for and on behalf of the Board any assignment or transfer of Leases, provided that the original party to the Lease (assignor), or a party wholly owned or controlled by the assignor, remains liable under the Lease. Any approval of an assignment given under this Section shall be deemed by the Board to have the same force and effect as an approval by resolution or ordinance of the Board. In addition, the Executive Director is delegated the authority to approve security deposit amounts less than the minimum standard provided in the Port's APs ("Below Standard Security Deposits") (which, as of the date of these By-Laws, is based on the customer's credit rating and shall generally be equal to three months' of average monthly billings or payments due under the agreement) for Short-Term Agreements (as defined in Section 6 above); provided that the Executive Director shall

make a written finding that it is in the benefit of the Port to require such lesser amount and that such lesser amount is reasonable in light of the proposed benefit to the Port. Any approval, waiver, or modification given under this Section shall be deemed by the Board to have the same force and effect as an approval by resolution or ordinance of the Board.

15. Except as otherwise may be required by the Charter, other applicable Law, or resolution or ordinance of the Board, the Executive Director shall be and he or she is hereby authorized to negotiate and execute for and on behalf of the Board, indemnification agreements regarding removal of underground petroleum or similar tanks with Port tenants; provided, however, that each of said agreements shall be upon a form prepared and approved by the Port Attorney and shall not be effective unless and until signed by the Port Attorney.

16. For the purpose of continued operation of the Port during the Executive Director's absence or disability, the Executive Director shall designate in writing one or more acting, assistant, or deputy Executive Directors or Department Directors who shall act pursuant to his or her authority to the extent so specified in writing and perform the necessary duties of the Executive Director during his or her absence or disability. When the Executive Director is unable to so designate in writing in his or her absence or disability, the Board may designate by resolution one or more acting, assistant, or deputy Executive Directors or Department Directors to act with the authority of the Executive Director to the extent so specified by resolution.

17. The Executive Director shall have the authority to sign, execute, or otherwise approve on behalf of the Board, documents required by, or responsive to, storm water regulations pursuant to the Federal Clean Water Act or similar State law, including permits related to the Municipal Separate Storm Sewer System, industrial activity, construction activity, or the Port of Oakland's Storm Water Ordinance (No. 4311, as it may be amended or superseded).

18. When acting pursuant to authority or responsibilities delegated or assigned to him or her pursuant to this Article IX or pursuant to the "Land Use and Development Code for the Oakland Airport Business Park" (as the "permit hearing officer"), the Executive Director shall have the authority to act as the designated decision maker with respect to CEQA on all projects for which the Port is the lead agency. As the decision maker with respect to such delegated action, the Executive Director or his or her designee(s) shall have the authority to adopt and certify Environmental Impact Reports

and to approve Mitigated Negative Declarations and Negative Declarations. Consideration of such environmental review documents for approval shall be conducted at noticed public hearings, if and when required by CEQA, chaired by the Executive Director or his or her designee(s). The Executive Director or his or her designee(s) shall take expert testimony (including that of Port staff) and public testimony, consider the issues and concerns presented by the public, and consider the environmental review documents. Any decision to issue, adopt, or approve the CEQA documents shall be announced in a Notice of Decision. Absent an administrative appeal, the decision announced in the Notice of Decision shall become final fifteen (15) calendar days after issuance of the Notice of Decision. Any person may appeal such decision to the Board by filing a written notice of appeal directed to the Secretary of the Board. The written notice shall set forth the specific grounds of the appeal, and the appellant shall pay the associated administrative appeal fee as established in the Port's Engineering Division Master Fee Schedule pursuant to Port Ordinance No. 4065, as it may be amended from time to time. Such administrative appeal shall be filed within fourteen (14) calendar days after issuance of the Notice of Decision. Any failure to timely file an administrative appeal shall be a complete bar to judicial review. Review by the Board of any administrative appeal filed shall be limited to those issues specifically raised in the administrative appeal. The decision by the Board to affirm or to overturn the decision of the Executive Director or his or his designee(s) shall be final. Judicial review of the final decision of the Board shall be limited to those issues raised on administrative appeal.

19. The Executive Director shall have the authority to delegate to one or more Port employees the authority to sign and accept on behalf of the Port regulatory permits and approvals, including the conditions and other requirements contained in such permits and approvals, which are routine, standard, and/or ministerial in nature, and which are approved in writing as to form and legality by the Port Attorney, including the following:

a. Routine, standard, and/or ministerial permits or approvals issued by the San Francisco Bay Conservation and Development Commission, the San Francisco Bay Regional Water Quality Control Board, or the United States Army Corps of Engineers for maintenance dredging or for repair of existing structures, including the routine, standard, and/or ministerial conditions and other requirements included in such permits or approvals;

b. Routine, standard, and/or ministerial permits or approvals which a federal, state, or other public governing commission, board, or instrumentality has by regulation authorized be issued administratively by its appointed executive director, executive office, or other comparable or lower-level staff, including the routine, standard and/or ministerial conditions and other requirements included in such permits or approvals;

c. Ministerial permits and approvals, such as a City building permit, including the routine, standard, and/or ministerial conditions and other requirements included in such permits and approvals; and

d. Other routine, standard, and/or ministerial permits or approvals, including the conditions of approval, payment of permitting and oversight fees (including execution of oversight fee agreements with regulatory agencies), and other requirements included in such permits and approvals, the acceptance of which on behalf of the Board will not, in the reasonable determination of the Executive Director, obligate the Port to the expenditure of more than the expenditure contemplated in the approved budget for the project.

20. The Executive Director shall have the authority to execute, subject to the written approval of the Port Attorney as to form and legality, all covenants to restrict use of property or similar deed restrictions with environmental regulatory agencies concerning Port property.

21. The Executive Director shall have the authority to file grant applications and accept grant funding awards, subject to the written approval of the Port Attorney as to form and legality, so long as such application and acceptance does not commit the Port to a definite course of action beyond any course of action already approved by the Board.

22. The Executive Director shall have the authority to enter into agreements that further the Port's interests consistent with the its Tidelands Trust obligations, if any, including agreements that grant the Port access to third party property provided that: (a) the term of the agreement is no longer than one (1) year; (b) the agreement has been approved as to form and legality by the Port Attorney; and (c) there is no monetary consideration to be paid by the Port.

23. The Executive Director shall have the authority to enter into Side Letter Agreements ("SLAs")/Letters of Understanding ("LOUs") with Port employee unions provided that the SLAs/LOUs are consistent with the Port Attorney's settlement authority as set forth in these By-Laws and are approved as to form and legality by the Port Attorney.

24. The Executive Director shall have the authority to enter into agreements with other public entities for the purpose of: (a) sharing information; (b) defining or clarifying jurisdictional boundaries; and (c) coordinating emergency-response type situations (including exercises/drills) provided that: (i) the agreements do not provide for any monetary consideration and it is customary that no monetary consideration would be provided; and (ii) the agreements are in writing and are approved as to form and legality by the Port Attorney.

25. The Executive Director shall designate in each Department reporting to him or her a custodian of records who shall keep, organize, and destroy (according to Board-adopted records retention policies and schedules) official public records produced and necessary to be kept in the course of business of that Department, including, but not limited to, (a) administrative regulations of a temporary nature, (b) official schedules of rates, dockages, wharfage, tolls, and charges for all public-owned docks, piers, wharves, slips, and other facilities, (c) contracts for services and supplies, (d) Short-Term Agreements, (e) grant documents, and (f) regulatory proceedings; but excluding any records to be kept by (x) the Board Secretary (Article VIII, Section 5), (y) the Port Attorney (Article X, Section 14), and (z) the Chief Audit Officer (Article XI, Section 5).

26. The Executive Director shall provide assistance to other Direct-Reporting Officers and their designees in order to enhance the effectiveness, efficiency, and economy of Port operations consistent with Board policies and direction.

27. The Executive Director shall perform such other services, and assume such other responsibilities and duties, as the Board may require from time to time.

ARTICLE X.

Port Attorney.

1. The Board shall appoint the Port Attorney by resolution. The Port Attorney shall be the attorney and legal advisor to the Port acting by and through the Board. The Port Attorney shall give legal advice to the Board, its officers and employees on official matters within its jurisdiction consistent with Board directions and policies, and shall be in charge of the legal affairs of the Port and have custody and supervision of the law files, books, records, briefs, and other papers of the Port Attorney's office.

2. The Port Attorney shall defend and, subject to direction from the Board, prosecute or compromise all actions at law or in equity and special proceedings for or against the City, the Port, the Board, or any of their officers or employees for actions within their scope of employment, pertaining to matters within the jurisdiction of the Board (collectively, the "Port Entities").

3. The Port Attorney shall keep on file or electronically in the Port Attorney's office all written opinions given by the Port Attorney to the Board or otherwise in the Port Attorney's official capacity, as well as the briefs, pleadings, and transcripts used in cases where the Port Attorney appears (according to Board-adopted records retention policies and schedules).

4. The Port Attorney shall, without undue delay, pass upon the form and legality of contracts, ordinances, resolutions, and other documents and proceedings of the Port, when required by Law or directed by the Board, and shall prepare the forms of contracts, ordinances, resolutions, and other documents to be acted upon by the Board.

5. The Port Attorney shall personally, or through Acting, Assistant, or Deputy Port Attorneys, (a) attend the meetings of the Board, (b) be regularly available to consult with committees of the Board, if any, (c) attend meetings, and consult with the Executive Director, (d) unless otherwise directed by the Board, be provided copies of all agendas, reports, minutes, and other correspondence to be used for discussion, consideration, or action at a meeting of the Board, (e) upon request, provide legal services on official matters within the Board's jurisdiction to the Executive Director and Port staff, and (f) subject to the other provisions of these By-Laws, keep the Executive Director advised on all legal matters. Consistent with the Port Attorney's responsibility as attorney and legal advisor to the Port, the Port Attorney shall, in the performance of the Port Attorney's duties, (i) administer the office of the Port Attorney subject to review and direction by the Board,

(ii) at all times carry out and implement the policies established by the Board and by Law, and (iii) render such services as may be required of the Port Attorney by the Board and by the Executive Director to carry out the policies and directions of the Board. The Port Attorney shall accept appointments to committees or other assignments of, or related to, associations of which the Port is a member or with which it is affiliated only after approval by the Board.

6. The Port Attorney shall regularly report to the Board orally or in writing on all matters of a legal nature affecting operations of the Port, together with the Port Attorney's opinion as to the origin or cause, present status, and future disposition of the matter, including claims or actions against the Port and the Port Attorney's recommendations with respect to actions of a legal nature which in the Port Attorney's judgment the Board should initiate.

7. The Port Attorney shall have the sole authority to file suit, to prosecute to judgment, and to settle any such civil and criminal actions in law, in equity, or in special proceedings concerning the Port Entities where the principal amount in dispute is \$100,000 or less. Where the principal amount exceeds such amount, the Port Attorney shall obtain Board approval by motion or resolution prior to filing or settling such an action. Where urgency requires immediate filing and prosecution, the Port Attorney shall proceed with such filing and prosecution and seek Board ratification by motion or resolution after filing of suit. The Port Attorney shall also have the sole authority to file and amend proofs of claim and otherwise act in bankruptcy proceedings, so long as such actions are reasonable in light of the proposed benefit to the Port and are done in consultation with the relevant Port division or department.

8. The Port Attorney shall have the sole authority to defend the Port Entities against claims, actions in law and/or in equity, and special proceedings. The Port Attorney shall have authority to settle actions brought against the Port Entities where the settlement amount to be paid by the Port is \$100,000 or less. Where the settlement amount (i) is to be paid directly by the Port (as opposed to by a third party such as an insurer or tenant on behalf of the Port), and (ii) exceeds such amount, the Port Attorney shall obtain Board approval by motion or resolution prior to settling such an action.

9. The Port Attorney shall have the sole authority to retain special legal counsel, legal experts,

technical experts, legal assistants, or research services in accordance with the provisions of the Purchasing Ordinance and subject only to the contract amount limitations of the Port Attorney's delegated authority to enter into professional services contracts under the Purchasing Ordinance.

10. The Port Attorney shall have authority to enter into contracts with attorneys for collection services with respect to delinquent accounts and to direct the filing of suit by any such attorney in conjunction with the provision of such collection services, provided, however, that: (a) compensation for such services shall be on a contingent fee basis, not to exceed 45% of funds actually collected from each respective account placed with any such attorney; and (b) the total amount to be paid to the collection attorney does not exceed \$150,000 for each respective account.

11. The Port Attorney shall have the sole authority to enter into tolling agreements, for and on behalf of the Port Entities, that preserve all substantive and procedural rights and all claims, obligations, causes of action, and defenses including, without limitation, defenses based on statutes of limitation.

12. The Port Attorney shall have authority to enter into non-disclosure agreements and joint or mutual interest confidentiality agreements and joint prosecution or defense agreements, for and on behalf of the Port Entities with countersigning third parties to enable the sharing of information, communications, and materials that may otherwise be subject to a claim of proprietary confidentiality, attorney-client privilege, or work product protection, without waiving any applicable confidentiality or privilege the Port Entities possess with respect to such information, communications, and materials when the Port Attorney determines that it is in the Port's interest to share such information, communications, and materials with the countersigning third parties or their attorneys.

13. Subject to Article XII of these By-Laws, the Port Attorney shall have the authority to appoint one or more Assistant Port Attorneys, Deputy Port Attorneys, legal assistants, legal secretaries, legal clerks, and legal/public records specialists (collectively, "Legal Assistants") to assist in the performance of duties of the Port Attorney and may designate and instruct any such Assistant or Deputy Port Attorneys to act or perform the duties of the Port Attorney in case of the Port Attorney's absence or disability. The Port Attorney shall prescribe and supervise the duties of and

EXHIBIT D

have the authority to assign, evaluate, reassign, release, and discipline (including, but not limited to, suspension, dismissal, and termination) any such Legal Assistants appointed by the Port Attorney provided the exercise of such power shall be subject to Article XII of these By-Laws and any applicable Laws and employment agreements, including, but not limited to, collective bargaining agreements, Port of Oakland Personnel Rules and Procedures, and/or salary and compensation schedules adopted by the Board by Ordinance.

14. The Port Attorney shall be the custodian of all contracts evidencing the acquisition of real property by purchase, condemnation, or otherwise, or the granting of any lease longer than one (1) year, and all general rules and regulations of the Board, excepting administrative regulations of a temporary nature.

15. The Port Attorney shall provide assistance to other Direct-Reporting Officers and their designees in order to enhance the effectiveness, efficiency, and economy of Port operations consistent with Board policies and direction.

ARTICLE XI.

Chief Audit Officer.

1. The Board shall appoint the Chief Audit Officer by resolution. The Chief Audit Officer shall conduct surveys, reviews, and audits of Port operations as the Chief Audit Officer deems to be in the best interest of the Port and the public, subject to direction and approval by the Board, or as directed by the Board. For these purposes, the Chief Audit Officer's surveys, reviews, and audits shall be objectively conducted under the guidance of applicable professional auditing standards and may include, but not be limited to:

a. Reviewing and appraising the effectiveness, adequacy, and application of accounting, functional, and operating controls and reliability and timeliness of accounting and other data generated within the Port organization;

b. Evaluating the Port's internal controls to ensure that the Port's assets and resources are adequately safeguarded from fraud, waste, and mismanagement;

c. Ascertaining compliance with the Board's resolutions and policies and the Executive Director's

instructions and directives, as well as applicable Law and regulations;

d. Conducting investigations of Whistleblower Complaints consistent with applicable Law and Port policies;

e. Responding to requests for audit and reviews;

f. Auditing the records of Port vendors and tenants to ensure compliance with applicable agreements, ordinances, resolutions, and other related Laws and policies; and

g. Reporting to the Board as appropriate or as directed by the Board, as part of a deliberative process, on recommendations for corrective actions or for taking action to adopt new policies.

2. The Chief Audit Officer shall conduct any other audits and report to the Board, as directed by the Board.

3. The Chief Audit Officer shall have complete and unrestricted access to the Port's records, systems, physical properties, and personnel relevant and necessary to conduct a survey, review, audit, or Whistleblower Complaint investigation.

a. The Chief Audit Officer shall maintain and safeguard the confidentiality of Port records consistent with applicable law and Port policy.

b. The Chief Audit Officer shall consult with the Port Attorney about Port records and their confidential status when such records are, or should be, subject to confidentiality pursuant to the attorney-client privilege and/or attorney work-product doctrine.

43. Subject to Article XII of these By-Laws, the Chief Audit Officer shall have the authority to appoint one or more assistant or senior auditors and other staff auditors to assist in the performance of duties of the Chief Audit Officer and may designate and instruct any such assistant to act or perform the duties of the Chief Audit Officer in case of the Chief Audit Officer's absence or disability. The Chief Audit Officer shall prescribe and supervise the duties of and have the authority to assign, evaluate, reassign, release, and discipline (including, but not limited to, suspension, dismissal, and termination) any such employees appointed by

the Chief Audit Officer provided the exercise of such power shall be subject to Article XII of these By-Laws and any applicable Laws and employment agreements, including, but not limited to, collective bargaining agreements, Port of Oakland Personnel Rules and Procedures, and/or salary and compensation schedules adopted by the Board by Ordinance.

54. The Chief Audit Officer shall consult the Port Attorney relating to any questions of law that may arise in an audit's findings or recommendations; provided that the Port Attorney has no conflict of interest in the audit's findings or recommendations and provided that the content of any audit, audit findings, or audit recommendations shall remain within the professional discretion and reflect the independent professional opinion of the Chief Audit Officer.

65. The Chief Audit Officer shall be the custodian of surveys, reviews, and audits conducted by the Office of Audit Services.

76. The Chief Audit Officer shall provide assistance to other Direct-Reporting Officers, their designees, and Port staff in order to enhance the effectiveness, efficiency, and economy of Port operations consistent with Board policies and direction.

ARTICLE XII.

Authorities and Organization.

1. The proceedings for and the delegations of the powers or duties of the Board shall be set forth in these By-Laws, except that the delegations of powers or duties for specific transactions or for purchasing of goods and services may be provided for in specific resolutions or ordinances. Each of the Direct-Reporting Officers shall cause to be carried out the duties assigned and exercise the powers delegated in these By-laws; provided that each of the Direct-Reporting Officers may exercise his or her delegated powers through his or her designee(s) designated in writing, by regulation, or by published rules and procedures, except where any such authority is personal to the officer pursuant to the Charter, these By-Laws, or Law.

2. The Board reserves to itself the power and duty to appoint and hire the "Direct-Reporting Officers," who shall be the Executive Director, the Port Attorney, the Secretary, and the Chief Audit Officer, and to prescribe and fix their duties, authority, and compensation, and to release or discipline (including, but not limited to, suspension,

dismissal, and termination) such Direct-Reporting Officers. Each Direct-Reporting Officer shall be directly answerable to the Board as a whole, and the Board shall provide all Board directions and inquiries regarding operations, policy or performance to the appropriate Direct-Reporting Officer.

3. The Executive Director may issue APs which shall be consistent with these By-Laws, applicable Board policies, the Charter, and all Law. The Board hereby binds itself to such APs to the extent necessary to: (a) comply with applicable Law, including, but not limited to, the Ralph M. Brown Act, the Political Reform Act (and other Law governing ethics of public officials), the California Public Records Act, and state and federal civil rights, employment and non-discrimination Law; (b) conform to the spending limits and approval procedures for travel and hosting expenditures; and (c) conform to accounting and records-keeping requirements for reimbursement of actual Board expenses necessary to carry out the business of the Board.

4. The President of the Board shall exercise the approval authority for any necessary pre-approval of travel or hosting expenditures by a Direct-Reporting Officer or a Board Commissioner (and the First Vice President in the case of approval for the President) pursuant to APs governing travel and hosting expenditures; provided, however, that the Board may, by motion of the Board, override the approval or disapproval by the President (or the First Vice-President in the case of expenditures or expenses of the President). The Chief Financial Officer (or such successor officer) shall perform the administrative processing (including any approvals) of any expense reports for reimbursement submitted by a Direct-Reporting Officer or a Board Commissioner pursuant to the applicable APs. Each Direct-Reporting Officer shall report to the President of the Board his or her planned absence from the Port (including any Port-related travel, personal leave of absence, vacation, or personal leave) prior to the absence, and the Board may by motion disapprove of any such absence.

5. Appointments to the following positions and places of employment by the designated Direct-Reporting Officer ("Appointing Authority") are subject to consultation with the Board relating to the prerequisite qualifications and process of recruitment and ratification by the Board prior to any appointee taking office, as well as the following conditions:

a. Positions subject to conditions of this Section 5 include:

(i) Department heads appointed by the Executive Director. For the purposes of these By-Laws and Section 902(c) of the Charter, "Department heads" shall include any Assistant or Deputy Executive Director, and the directors of the divisions or departments, including (if applicable) maritime, aviation, commercial real estate, finance and administration, engineering, social responsibility, communications, government affairs, information technology, environmental programs and planning, and human resources, or any other additional or replacement positions or places of employment designated as "department head" under the applicable resolution or ordinance of the Board;

(ii) Any Assistant Port Attorney appointed by the Port Attorney;

(iii) Any Assistant Secretary appointed by the Secretary; and

(iv) Any Assistant Auditor appointed by the Chief Audit Officer.

b. The Appointing Authority may not alter the existing at-will nature of the employment relationship between the Port and any employee appointed subject to this Section 5.

c. It shall be the duty of the Appointing Authority, in exercising the power of appointments for positions subject to this Section 5, to utilize any procedures established by the Board for appointment of at-will employees.

d. Each Appointing Authority shall evaluate the performance of the employees he or she appointed subject to this Section 5 and may set, increase, and/or advance salaries within existing grade or schedules (if any), including provision for additional pay under Board-approved programs, if any.

e. Each Appointing Authority may initiate and process the completion of desk audits of employees he or she appointed subject to this Section 5 and take such actions consistent with applicable Port policy and the powers delegated to each Appointing Authority, or to recommend actions to the Board to the extent such powers have not been so delegated to the Appointing Authority, to effect salary adjustments as deemed appropriate by the Appointing Authority or Board as the case may be.

6. Except as otherwise provided herein, appointment of employees, including promotions or

redesignations of persons, shall not be subject to prior approval by the Board unless the proposed action will exceed the Board-approved staffing plan and budget during the applicable fiscal year.

7. Unless otherwise provided for in these By-Laws, appointments or hiring of employees shall be made through employment and hiring procedures established by the Board. Except for positions and places of employment exempt under the Charter from the personnel system of the City or the competitive civil service, each place of employment shall be assigned a classification, and each appointment shall be made through the employment and hiring procedures provided for in the personnel rules and procedures.

8. Appointments of employees to Port positions and other delegated personnel actions, including, but not limited to, suspensions, terminations, and leaves of absences, shall be reported to the Board on a quarterly basis by a report from the Executive Director, setting forth the effective date of each action taken, a description of the action, the names of personnel affected, and, with respect to appointments, the classification title and salary rate assignment.

ARTICLE XIII.

Office Hours.

1. The office hours for the executive and administrative offices of the Port shall be from 8:30 a.m. to 5:00 p.m. daily, Monday through Friday, and the number of hours of work for each employee shall be as set forth in the respective resolutions covering the various positions.

2. The holidays recognized by the Board are those specified by general law of the State of California and, in addition thereto, or in lieu thereof, any holidays specified in Memoranda of Understanding with recognized employee organizations to which the Board is a party; provided that arrangements shall be made with a sufficient number of employees to keep the offices and operations of the Port open for public service, as required.

3. The Direct-Reporting Officers may in their discretion require their respective offices and divisions to be kept open at other hours and days upon notice to the officers and employees thereof, and the Direct-Reporting Officers may assign alternative hours, other than those office hours set forth in Article XIII, Section 1 above, to

certain officers and employees as the interest of the Port require.

ARTICLE XIV.

Amendments.

1. These By-Laws may be amended from time to time by ordinance of the Board.

Revised: February 27, 2020 _____
Port Ordinance No.: 4552 _____