



**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

RESOLUTION: 1) APPROVING THE ADDITION OF THE WEST OAKLAND ENVIRONMENTAL INDICATORS PROJECT PRESCOTT GREENING/LIVING BUFFER PROJECT TO THE SEAPORT AIR QUALITY 2020 AND BEYOND PLAN ("2020 AND BEYOND PLAN") AS A RELATED PROJECT; 2) ADDING THE FOLLOWING TWO NEW IMPLEMENTING ACTIONS TO THE NEAR TERM ACTION PLAN IN THE 2020 AND BEYOND PLAN: A) REQUIRING CLEANER DREDGE ENGINES; AND B) SUPPORTING HYDROGEN FUEL CELL DEMONSTRATION PROJECT; AND 3) ALLOCATING \$10,000 IN SUPPORT OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION'S EXISTING VESSEL SPEED REDUCTIONS PROGRAM.

WHEREAS, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated Agenda Report Item 5.2, dated September 30, 2021, and related agenda materials ("Agenda Report"), has received the expert testimony of Port of Oakland ("Port") staff, and has provided opportunities for and taken public comment; and

WHEREAS, 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 Prescott Greening/Living Buffer Project envisions a design effort on the western perimeter of the West Oakland residential neighborhood to address air quality, dust, noise, and water quality issues related to industrial uses and transportation, uses such as regional freeways, rail and railyard operations, Seaport operations, and local industries; and

WHEREAS, the Seaport Air Quality 2020 and Beyond Plan: Annual Report ("Annual Report"), dated September 30, 2021, updated the Board on the Port's progress towards achieving its vision of a zero-emissions Seaport and included updates on the stakeholder consultation process that resulted in the recommendations to add two new Implementing Actions to the Near Term Action Plan ("NTAP") namely: 1) Require Cleaner Dredging; and 2) Support Hydrogen Fuel Cell Demonstration Project; and

WHEREAS, as a trustee managing submerged lands and tidelands on behalf of the People of the State of California, Port funds are held subject to the common law public trust exclusively for statewide public trust purposes such as maritime commerce, navigation, and fisheries. The National Oceanic and Atmospheric Administration's ("NOAA") existing Vessel Speed Reduction known as "Protecting Blue Whales and Blue Skies" allocation is consistent with the public trust because these funds will be used to improve the performance of ships and tugs engaged in maritime commerce;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

Section 1. The Board approved the 2020 and Beyond Plan on June 13, 2019, and made determinations under the California Environmental Quality Act ("CEQA") at that time. The proposed additions to the 2020 and Beyond Plan and funding NOAA's existing Vessel Speed Reduction Program have been determined to be exempt from the CEQA Guidelines pursuant to Section 15061(b)(3) of the CEQA Guidelines, which states that CEQA applies only to activities that have a potential for causing a significant effect on the environment. Adding the Prescott Greening/Living Buffer as a related project, adding two Implementing Actions to the NTAP, and allocating \$10,000 to support NOAA's existing Vessel Speed Reduction Program will not result in physical changes to the environment, and therefore these actions are not subject to CEQA and no further environmental review is required.

Section 2. The Board hereby:

- A. Revises the 2020 and Beyond Plan "Related Projects" Table to add the Prescott Greening/Living Buffer project; and
- B. Adds two Implementing Actions to the NTAP as follows: 1) NTAP #40: Require Clean Dredge Engines; and 2) NTAP #41: Support Hydrogen Fuel Cell Demonstration Project; and
- C. Supports the NOAA existing Vessel Speed Reduction program known as "Protecting Blue Whales and Blue Skies" by allocating \$10,000 in FY 2022 to support communications and outreach efforts; and
- D. Authorizes the Executive Director to (i) execute an agreement with NOAA to grant \$10,000 to the existing Vessel Speed Reduction program, subject to approval as to form and legality by the Port Attorney, and (ii) make any additions, modifications, or corrections as necessary to implement the agreement provided that any addition, modification, or correction does not materially differ from the terms and conditions set forth in this Resolution and in the Agenda Report, 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. This resolution approves and authorizes the execution of an agreement(s) in accordance with the terms of this resolution. Unless and until a separate written agreement(s) is duly executed on behalf of the Board as authorized by this resolution, is signed and approved as to form and legality by the Port Attorney, and is delivered to the contracting party, there shall be no valid or effective agreement(s).

Section 4. This resolution shall be effective immediately upon adoption by the Board.

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