



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04001

**RESOLUTION APPROVING THE DEDICATION OF THE NEW AVIATION FACILITIES MAINTENANCE COMPLEX IN THE NAME AND MEMORY OF FORMER PORT MAINTENANCE FOREMAN, "JERRY" BIZZLE.**

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**WHEREAS** Vadine "Jerry" Bizzle (hereinafter "Jerry Bizzle") was a beloved Port employee providing service to the Oakland International Airport in the maintenance department for 27 years beginning February 11, 1975, as a CETA trainee and ending after nine (9) years of service as pavement foreman for the Airport, with his passing on March 18, 2002; and

**WHEREAS** Jerry Bizzle exemplified the highest standards and values of the Airport's motto "safety, security and customer satisfaction", and

**WHEREAS** Jerry Bizzle's dedication to these standards resulted in his having received noteworthy commendations and acknowledgements from the Federal Aviation Administration, airlines, tenants and other aviation organizations throughout his career; and

**WHEREAS** Jerry Bizzle exhibited the finest qualities of leadership as a mentor, trainer and teacher and through his work ethic, dependability, quick response, strength, compassion and tireless commitment to community service programs and projects; now, therefore, be it

**RESOLVED** upon the nomination of Airport facilities personnel and Airport management, and recommendation of the Executive Director and the Port Administrative Committee, the new Airport Facilities Maintenance Complex is hereby approved for dedication in the name and memory of former Port Maintenance Foreman, Jerry Bizzle; and be it

**FURTHER RESOLVED** that said facility maintenance complex shall prominently display and bear signage identifying the maintenance facilities complex as "The Jerry Bizzle Facilities Maintenance Complex"; and be it

**FURTHER RESOLVED** that the dedication of said facilities maintenance complex in the name and memory of Jerry Bizzle shall be commemorated at a dedication ceremony on January 22, 2004.

At a regular meeting held January 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Scates and President Protopappas – 6

Noes: None

Absent: Commissioner Kiang - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04002

**RESOLUTION COMPROMISING AND SETTLING  
CLAIMS AND AUTHORIZING EXECUTION OF  
STIPULATED SETTLEMENT.**

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**WHEREAS**, SOCORRO SALAZAR has pending as Case No. OAK 0280204 as application for adjudication of claim filed before the Workers' Compensation Appeals Board alleging injuries she sustained arising out of and in the course of employment and seeking compensation therefor; and

**WHEREAS**, a dispute has arisen between the Port and SOCORRO SALAZAR regarding the extent of injuries arising out of and in the course of employment and the extent and amount of permanent disability indemnity and other workers' compensation benefits which may be payable; and

**WHEREAS**, SOCORRO SALAZAR has offered to accept the sum of \$25,000.00, in compromise and full satisfaction of said workers' compensation claims during her employment by the Port; and

**WHEREAS**, this Board does find that it is in the best interest of the Port to compromise and settle said claims and Workers' Compensation Appeals Board proceedings upon said basis for the total sum of \$25,000.00, respecting workers' compensation benefits from which sum SOCORRO SALAZAR agrees to pay her attorney's fees; now, therefore, be it

**RESOLVED** that the Port Attorney be and he hereby is authorized to compromise and settle said claim for workers' compensation benefits as Case No. OAK 0280204 now pending before the Workers' Compensation Appeals Board by paying to SOCORRO SALAZAR the sum of \$25,000.00, and further to enter into a stipulated agreement on said

basis, and the Port Attorney is hereby authorized to execute any and all necessary agreements to effect this compromise and settlement.

At a regular meeting held January 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kiang - 1



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**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04003

RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF  
A TOLLING AGREEMENT WITH PHOENIX IRON WORKS  
CONCERNING THE SITE AT 720 BRUSH STREET, OAKLAND,  
CALIFORNIA.

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**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the execution for and on behalf of the Board a Tolling Agreement with Phoenix Iron Works concerning the site at 720 Brush Street, Oakland, California, tolling the statute of limitations concerning certain environmental claims from January 1, 2004, until December 31, 2004; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At a regular meeting held January 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kiang - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04004

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION  
OF A CERTAIN LICENSE AND CONCESSION AGREEMENT  
WITH DAL GLOBAL SERVICES, INC.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Aviation to execute for and on behalf of the Board a certain License and Concession Agreement between the Port and **DAL GLOBAL SERVICES, INC.** for occupancy of 4,300 square feet of warehouse space in Building M-112 and 280 square feet of office (trailer) space adjacent to Gate 4, Building M-103, Oakland International Airport, Oakland, California, at the rate proposed and as otherwise described in Agenda sheet Item No. A-2, dated January 20, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act and the Port CEQA Guidelines pursuant Article 19 of Guidelines Section 15300.4 and to Class 1 of Guidelines Section 15301(p); and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At a regular meeting held January 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kiang - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04005

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION  
OF A CERTAIN LICENSE AND CONCESSION AGREEMENT  
WITH PEGASUS AVIATION, INC.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Aviation to execute for and on behalf of the Board a certain License and Concession Agreement between the Port and **PEGASUS AVIATION, INC.**, for approximately 27,091 square feet of office, shop, hangar, apron and unpaved land in and adjacent to Building L-310/East, North Airport, Oakland, California, at the rate proposed and as otherwise described in Agenda sheet Item No. A-3, dated January 20, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act and the Port CEQA Guidelines pursuant Article 19 of Guidelines Section 15300.4 and to Class 1 of Guidelines Section 15301(p); and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At a regular meeting held January 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kiang - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04006

**RESOLUTION IN SUPPORT OF REGIONAL  
MEASURE 2: REGIONAL TRAFFIC RELIEF  
PLAN (BRIDGE TOLL INCREASE)**

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**WHEREAS**, Regional Measure 2: Regional Traffic Relief Plan (Bridge Toll Increase) will be on the March 2004 ballot; and

**WHEREAS**, Regional Measure 2 is a product of extensive research, hard work and community organizing that will ultimately benefit the Bay Area; and

**WHEREAS**, Regional Measure 2 contains funding for projects of benefit to the Port of Oakland: 1) the BART - Oakland International Airport Connector; 2) ferries to and from Jack London Square; and 3) improvements to highway I-880; and

**WHEREAS**, the BART - Oakland International Airport Connector is a reliable, cost-effective, efficient, and sustainable rail transit system that will relieve congestion around and on the Bay Bridge; and

**WHEREAS**, studies show that the BART - Oakland International Airport Connector will significantly improve access to Oakland International Airport, making it a more competitive choice for travelers to the Bay Area; and

**WHEREAS**, Regional Measure 2, if passed, will provide \$30 million in funds to the BART - Oakland International Airport Connector project; and

**WHEREAS**, the Water Transit Authority's ridership studies have shown that there will be an increased demand for ferry service to and from Jack London Square; and

**WHEREAS**, the Water Transit Authority is proposing to use additional funds for increasing the number of boats and amount of service for the Alameda-Oakland route; and

**WHEREAS**, Regional Measure 2, if passed, would also provide \$12 million to the Water Transit Authority for increasing the number of boats and amount of service for the Alameda-Oakland route resulting in improved access to Port commercial development; and

**WHEREAS**, the Port is aggressively moving forward with development of the Oak-to-9<sup>th</sup> project; and

**WHEREAS**, Regional Measure 2, if passed, would also provide \$10 million for improvement to highway I-880 including on and off ramps enabling access to the Oak-to-9<sup>th</sup> area; therefore

**BE IT RESOLVED**, that the Oakland Port Board of Port Commissioners hereby supports and endorses Regional Measure 2: Regional Traffic Relief Plan (Bridge Toll Increase).

At a regular meeting held January 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kiang - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND  
RESOLUTION NO. 04007**

**RESOLUTION APPROVING CONSENT TO ASSIGNMENT  
OF CERTAIN CONTRACTS AND RIGHTS FROM LEIGH  
FISHER ASSOCIATES TO JACOBS CONSULTANTS,  
INC., DOING BUSINESS AS LEIGH FISHER  
ASSOCIATES FOR CERTAIN EXISTING CONSULTANT  
AGREEMENTS.**

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**WHEREAS** on December 19, 2000 (and November 6, 2001 for the First Supplemental Agreement) and June 4, 2002, the Board of Port Commissioners ("Board") approved certain consultant agreements with **LEIGH FISHER ASSOCIATES** for as-needed aviation planning consulting services and traffic management planning for terminal expansion program construction; respectively; now, therefore be it

**RESOLVED** that the Board consents and hereby grants the assignment of said above-referenced consultant agreements to **JACOBS CONSULTANTS, INC., doing business as LEIGH FISHER ASSOCIATES**, provided that such consent is granted upon the express condition that **JACOBS CONSULTANTS, INC., doing business as LEIGH FISHER ASSOCIATES** shall assume all of the obligations and liabilities of **LEIGH FISHER ASSOCIATES** under said consultant agreements, whether the obligations or liabilities arose before or after the effective date of the assignment and that **LEIGH FISHER ASSOCIATES** is not hereby released from any obligation or liability under said consultant agreements, whether the obligation or liability arose before or after the effective date of the assignment to **JACOBS CONSULTANTS, INC., doing business as LEIGH FISHER ASSOCIATES**, as more fully set forth in Agenda Item No. A-5, dated January 20, 2004; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At a regular meeting held January 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kiang - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04008

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF  
A FIRST AMENDMENT TO THE EXCLUSIVE NEGOTIATING  
AGREEMENT WITH ARROWHEAD MARSH PARTNERS LLC.**

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**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the execution for and on behalf of the Board that certain **First Amendment to the Exclusive Negotiating Agreement** with **ARROWHEAD MARSH PARTNERS LLC**, for an approximately 34-acre site located at Swan Way and Pardee Lane, adjacent to the Oakland Airport Business Park (the "ENA") in order to extend the due diligence period specified in the ENA Performance Schedule due to time constraints and as more fully described in Agenda Sheet Item No. C-1 dated January 20, 2004; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of agreements in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party or parties, there shall be no valid or effective agreement.

At a regular meeting held January 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kiang - 1



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04009**

**RESOLUTION APPROVING ADDENDUM TO FINAL EIR;  
RE-CERTIFYING FINAL EIR, APPROVING REVISED CEQA  
FINDINGS, ADOPTING STATEMENT OF OVERRIDING  
CONSIDERATIONS AND MITIGATION MONITORING AND  
REPORTING PROGRAM AND APPROVING MODIFICATIONS TO  
THE METROPORT PROJECT.**

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**WHEREAS**, Cherokee SIMEON Venture II, LLC ("SIMEON" or "Project Applicant") proposes to construct, on a 23-acre site located west of Interstate 880 and adjacent to the Hegenberger Road exit, a retail and restaurant center totaling approximately 240,000 square feet in eight one-story buildings distributed throughout the site. The Project would include construction of one major retail building of approximately 150,000 square feet, two smaller retail buildings totaling approximately 60,000 square feet, two shop space/quick service food buildings totaling approximately 16,000 square feet, three sit down and/or fast food restaurants totaling approximately 13,800 square feet; and approximately 1,178 parking spaces in surface parking areas throughout the site. Oakport Street would not be realigned ("Current Project" or "Modified Metroport Project"); and

**WHEREAS**, on February 18, 2003, the Board of Port Commissioners adopted Resolution 0344 and approved a development permit for the same site, authorizing construction of approximately 1.3 million square feet of Class A office in five buildings, ranging from 180,000 square feet to 336,000 square feet, and ranging from 6 stories to 14 stories in height. ("Original Project" or "Metroport Project") The Original Project also included construction of a full-service hotel, retail space, parking spaces, a landscaped quad area with a water feature, and realignment of Oakport Street; and

**WHEREAS**, on February 18, 2003, by Resolution 0344, the Board also certified a Final EIR ("FEIR") for the Metroport Project, approved CEQA Findings, and adopted a Statement of Overriding Considerations and Mitigation Monitoring and Reporting Program for the Metroport Project; and

**WHEREAS**, the Current Project is similar to Alternative 4, Regional Retail and Restaurant Center, analyzed in the Final EIR for

the Metroport Project, which alternative was rejected by the Board on the grounds that the alternative would result in similar significant and unavoidable project-specific and cumulative impacts to air quality as compared to the Original Project; and the alternative was not as likely to meet the Original Project's, Port's and City's goals and objectives of providing a visually distinctive and prominent marker at this key site in the gateway area; and

**WHEREAS,** the Project Applicant has determined the Original Project is no longer economically feasible due to changed market conditions; and

**WHEREAS,** in December 2003, the Port prepared an Addendum to the Final EIR for the Metroport Project in order to evaluate whether the Revised Metroport Project would result in any new or substantially more severe environmental impacts compared to the previously approved Metroport Project ("2003 Addendum"); now, therefore, be it

**RESOLVED:** That the Board hereby attaches Resolution 0344 as Exhibit A to this Resolution, and incorporates Resolution 0344 herein by reference; and be it

**FURTHER RESOLVED:** That the Board, as the final decision-making body of the lead agency, approves the 2003 Addendum and makes the following certifications:

- (1) The FEIR, including the 2003 Addendum, has been completed in compliance with CEQA and the Port's environmental review regulations;
- (2) The FEIR, including the 2003 Addendum, reflects the lead agency's independent judgment;
- (3) The Board, as the final decision-making body of the lead agency, reviewed and considered the impacts and mitigation measures (see Exhibit 1 to Resolution 0344) and all other information in the FEIR, including the 2003 Addendum, before approving the Current Project that is the subject of this resolution; and be it

**FURTHER RESOLVED:** That the Board, as the final decision-making body of the lead agency re-approves the MMRP and adopts and imposes as conditions of approval of the Current Project all of the mitigation measures previously adopted for the Original Project as set forth in the MMRP in Exhibit 2 to Resolution 0344. The Port's Executive Director is directed to ensure that the mitigation measures contained in the MMRP are duly and diligently implemented and enforced; and be it

**FURTHER RESOLVED:** That the Board makes and re-adopts the "General Findings", "Findings Relating to Mitigation Measures, Project Environmental Impacts and Alternatives", and the "Statement of

Overriding Considerations for the Unavoidable Adverse Impacts" , as set forth in Exhibits 3, 4, and 5 respectively to Resolution 0344, with the following revisions:

(1) All findings and statements referring to "the Metroport Project" or "the Project" shall also refer to "the Revised Metroport Project" or "Current Project;"

(2) The Description of the Environmental Impact Report in the General Project Findings is modified to add the 2003 Addendum to the list of documents constituting the Metroport Final EIR;

(3) The Record described in the General Project Findings is modified to add the 2003 Addendum;

(4) The Project described in the General Project Findings is modified to describe the Current Project;

(5) The Findings Relating to Alternatives are modified to find that, based upon changed economic conditions that have resulted in a diminished market for office space, the Current Project now provides the best balance between satisfaction of the Project objectives and mitigation of environmental impacts; the Current Project is superior to the Original Project in terms of allowing the attainment of the objectives of the Project and the benefits of the Project set forth in the Statement of Overriding Considerations; the Current Project is more likely than the Original Project to meet the Project's, Port's, and City's goals and objectives because the Current Project can be built in the near-term, which will re-vitalize and develop a key, in-fill site along the Hegenberger corridor, provide a region-serving and visitor-serving development, provide commercial uses to support the other businesses along the Hegenberger corridor and in the Oakland Airport Business Park, provide a substantial development and employment center in close proximity to major transportation facilities, facilitate the future development of an intermediate station for the BART Connector on the Project site, create additional revenues to contribute to the local economy, and realize the development potential envisioned by the General Plan;

(6) The Statement of Overriding Considerations For The Unavoidable Adverse Impacts is modified to delete subparagraph (i), which referred to a visually distinctive and prominent destination marker, delete from subparagraph (k) the provision of "(5) substantial green space in the center of the Project site" and "(7) reduced energy demand due to shallow building footprints in order to allow daylight to penetrate into regularly occupied spaces"; and delete from subparagraph (l) the reference to "street" improvements; and be it

**FURTHER RESOLVED:** That the Board, having fully considered and independently reviewed and evaluated the FEIR, including the 2003 Addendum, hereby re-certifies the FEIR for the Current Project; and be it

**FURTHER RESOLVED:** That the Board further finds and determines that this Resolution complies with CEQA and directs that a CEQA Notice of Determination be filed with the appropriate agencies; and be it

**FURTHER RESOLVED:** That the Board further finds that the Current Project, as conditioned by the Board, is generally consistent with all applicable Port Ordinances, policies and regulations; and be it

**FURTHER RESOLVED:** That the Board finds and determines that the Current Project, as conditioned by the Board, is consistent with applicable policies of the Oakland General Plan, as set forth in Exhibit B to this Resolution, which is attached hereto and incorporated herein by this reference; and be it

**FURTHER RESOLVED:** That the Board finds and determines that the Current Project is consistent with applicable policies of the Alameda County Airport Land Use Policy Plan; and be it

**FURTHER RESOLVED:** That the Board, subject to the mitigation measures recommended in the FEIR, which are set forth in Exhibit 1 and Exhibit 2 to Resolution 0344, approves the Revised Metroport Project and authorizes the Executive Director to issue any necessary permits for the Revised Metroport Project, including conditions of approval acceptable to the Executive Director, which shall replace the Development Permit Conditions of Approval attached to Resolution 0344 as Exhibit 8; and be it

**FURTHER RESOLVED:** That the "Whereas" recitals contained in this Resolution are true and correct and are an integral part of the Board's decision; and be it

**FURTHER RESOLVED:** That the Board approves and adopts all of the staff recommendations contained in the January 20, 2004 Agenda Report; and be it

**FURTHER RESOLVED:** That if any term, provision or portion of the Board's findings or the application of the same to a particular situation is held by a court to be invalid, void or unenforceable, the remaining provisions of the findings, or the application of the same to other situations, shall continue in force and effect unless amended or modified by the Board; and be it

**FURTHER RESOLVED:** That, to the maximum extent permitted by law, the Project Applicant shall defend, hold harmless, and indemnify the Port and its respective officers, agents and employees (whether the action is on behalf of the Port, or otherwise) (the "Indemnified Parties") against any and all liability, damages, claims, demands, judgments or other losses (including, without limitation, attorneys

fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from or caused by any action or approval associated with the Current Project; and be it

**FURTHER RESOLVED:** That this indemnity includes, without limitation, any legal or administrative challenge, referendum or initiative filed or prosecuted to overturn, set-aside, stay or otherwise rescind any or all approvals granted in connection with the Current Project, approval of the 2003 Addendum, re-certification of the FEIR, and granting any permit issued in accordance with the Current Project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs as used herein shall include, without limitation, any attorneys' fees, expert witness and consultant fees, court costs and other litigation fees, Port Attorney time and overhead costs, and other Port Staff overhead costs and normal day-to-day business expenses incurred by the Port ("Litigation Expenses"). The Indemnified Parties shall have the right to select counsel to represent the Indemnified Parties, at the Project Applicant's expense, in the defense of any action specified in this condition of approval. The Indemnified Parties shall take all reasonable steps to promptly notify the Project Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval.

At a regular meeting held January 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Scates and President Protopappas – 5

Noes: Commissioner Kramer - 1

Absent: Commissioner Kiang - 1

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BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND

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RESOLUTION NO. 03044

RESOLUTION CERTIFYING FINAL EIR, APPROVING CEQA FINDINGS, ADOPTING STATEMENT OF OVERRIDING CONSIDERATIONS AND MITIGATION MONITORING AND REPORTING PROGRAM AND APPROVING DEVELOPMENT PERMIT FOR METROPORT PROJECT.

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WHEREAS, SIMEON Commercial Properties ("SIMEON" or "Project Applicant") proposes to construct, on a 23-acre site located west of Interstate 880 and adjacent to the Hegenberger Road exit, approximately 1.3 million square feet of Class A office space in five buildings, ranging from 180,000 square feet to 336,000 square feet, and ranging from 6 stories to 14 stories in height. The Project would also include construction of a full-service hotel with approximately 340 rooms in one building of 16 stories. The hotel would include conference space, as well as space for a lobby, restaurant and retail. Approximately 50,000 square feet of retail would be incorporated on the ground floor in various Project buildings. Approximately, 4,850 parking spaces would be provided and located within two parking garages and on surface parking areas throughout the site. The buildings would surround a landscaped, campus quad area with a water feature defining pedestrian walkways between buildings. Oakport Street would be realigned along the northern boundary of the project site, with a perpendicular intersection at Edgewater Drive ("Project" or "Metroport Project"); and

WHEREAS, pursuant to the California Environmental Quality Act, Public Resources Code §2100 et. seq. (collectively "CEQA"), the Port of Oakland ("Port"); determined that an environmental impact report ("EIR") would be required. The Port issued a Notice of Preparation ("NOP"), which was circulated from April 26 to May 29, 2001, to responsible agencies, and interested groups and individuals for review and comment. The Port received comment letters from twelve parties; and

WHEREAS, on May 14, 2001, the Port held a duly noticed EIR scoping meeting, which was attended by seven people, excluding representatives of the Port, EIR consultant and the Project Applicant's staff or consultants; and

WHEREAS, the Port, acting as lead agency under CEQA, prepared a Draft Environmental Impact Report ("DEIR") for the Metroport Project; and

WHEREAS, the DEIR was prepared in accordance with CEQA by identifying and evaluating Project impacts, and proposing mitigation measures, along with a reasonable range of alternatives to the proposed Project, and review and evaluation of the environmental impacts of those alternatives; and

WHEREAS, on November 12, 2002 the DEIR was circulated for a 45-day public review period (November 12 through December 27, 2002); and

WHEREAS, during the DEIR comment period, the Board of Port Commissioners ("Board" or "Port Board"), on December 3, 2002, conducted a duly noticed public hearing on the Project, but no comments were given by members of the public at the public hearing; and

WHEREAS, during the DEIR comment period, the Port received comments on the DEIR from seven parties; and

WHEREAS, on February 6, 2003, the "Response to Comments on the Draft Environmental Impact Report," which responded to comments received by the Port on the DEIR, was released; and

WHEREAS, thereafter and pursuant to CEQA requirements, responses to comments were prepared and circulated by the Port to each commenting responsible agency; and

WHEREAS, the FEIR, which includes the DEIR, the Port's response to comments and all appendices, made certain corrections and changes to the DEIR; and

WHEREAS, all documents comprising the FEIR were made available to responsible agencies and the public for review and comment in accordance with CEQA; and

WHEREAS, pursuant to CEQA, the Port prepared a Mitigation Monitoring and Reporting Program ("MMRP") that identifies each Project mitigation measure, the parties responsible for monitoring the implementation of them, and the associated monitoring and reporting actions and schedules; and

WHEREAS, the DEIR and FEIR were submitted to and fully reviewed, considered and evaluated by the Board, and the Board has fully considered, reviewed and evaluated staff presentations and recommendations, public comments and all documents and other evidence submitted on the Project; now, therefore, be it

RESOLVED: That the Board, as the final decision-making body of the lead agency, makes the following certifications:

- (1) The FEIR for the Project has been completed in compliance with CEQA and the Port's environmental review regulations;
- (2) The FEIR reflects the lead agency's independent judgment;
- (3) The Board, as the final decision-making body of the lead agency, reviewed and considered the impacts and mitigation measures (see Exhibit 1) and all other information in the FEIR before approving the Project that is the subject of this resolution;

FURTHER RESOLVED: That the Board, as the final decision-making body of the lead agency approves the MMRP and adopts and imposes as conditions of approval of the Project all of the mitigation measures identified in the DEIR, as such was revised by the FEIR, and as set forth in the MMRP in Exhibit 2, which is attached hereto and incorporated herein by this reference. The Port's Executive Director is directed to ensure that the mitigation measures contained in the MMRP are duly and diligently implemented and enforced; and be it

FURTHER RESOLVED: That the Board makes and adopts the "General Findings", "Findings Relating to Mitigation Measures, Project Environmental Impacts and Alternatives", and the "Statement of Overriding Considerations for the Unavoidable Adverse Impacts" of the Project, as set forth in Exhibits 3, 4, and 5 respectively, which are attached hereto and incorporated herein by this reference; and be it

FURTHER RESOLVED: That the Board, having fully considered and independently reviewed and evaluated the FEIR, including all corrections and changes to the DEIR, and having determined that said DEIR corrections and changes do not require recirculation of the DEIR, hereby certifies the FEIR for the Project; and be it

FURTHER RESOLVED: That the Board further finds and determines that this Resolution complies with CEQA and directs that a CEQA Notice of Determination be filed with the appropriate agencies; and be it

FURTHER RESOLVED: That the Board further finds that the Project, as conditioned by the Board, is generally consistent with all applicable Port Ordinances, policies and regulations; and be it

FURTHER RESOLVED: That the Board finds and determines that the Project, as conditioned by the Board, is consistent with applicable policies of the Oakland General Plan, as set forth in Exhibits 6 and 7, which are attached hereto and incorporated herein by this reference; and be it



FURTHER RESOLVED: That the Board finds and determines that the Project, as conditioned by the Board, is consistent with applicable policies of the Alameda County Airport Land Use Policy Plan; and be it

FURTHER RESOLVED: That the Board, subject to the "Development Permit Conditions of Approval" set forth in Exhibit 8, which is attached hereto and incorporated herein by this reference and mitigation measures recommended in the FEIR, which are set forth in the Exhibit 1 and the MMRP (Exhibit 2), approves and authorizes issuance of the Development Permit for this Project; and be it

FURTHER RESOLVED: That the record before the Board relating to this Project includes, without limitation, the information, documents, plans, and policies set forth in Exhibit 3, which is attached hereto and incorporated herein by this reference; and

FURTHER RESOLVED: That the location and custodian of the documents or other material which constitute the record of proceedings upon which the Board's decision is based respectively are Port of Oakland, 530 Water Street, Oakland, California, and the Manager of the Environmental Planning Department; and be it

FURTHER RESOLVED: That the "Whereas" recitals contained in this Resolution are true and correct and are an integral part of the Board's decision; and be it

FURTHER RESOLVED: That the Board approves and adopts all of the staff recommendations contained in the February 18, 2003 Agenda Sheet; and be it

FURTHER RESOLVED: That if any term, provision or portion of the Board's findings or the application of the same to a particular situation is held by a court to be invalid, void or unenforceable, the remaining provisions of the findings, or the application of the same to other situations, shall continue in force and effect unless amended or modified by the Board; and be it

FURTHER RESOLVED: That, to the maximum extent permitted by law, the Project Applicant shall defend, hold harmless, and indemnify the Port and its respective officers, agents and employees (whether the action is on behalf of the Port, or otherwise) (the "Indemnified Parties") against any and all liability, damages, claims, demands, judgments or other losses (including, without limitation, attorneys fees, expert witness and consultant fees and other litigation expenses), referendum or initiative relating to, resulting from or caused by, or alleged to have resulted from or caused by any action or approval associated with the Project; and be it

**FURTHER RESOLVED:** That this indemnity includes, without limitation, any legal or administrative challenge, referendum or initiative filed or prosecuted to overturn, set-aside, stay or otherwise rescind any or all approvals granted in connection with the Project, certification of the FEIR for the Project, and granting any permit issued in accordance with the Project. This indemnity includes, without limitation, payment of all direct and indirect costs associated with any action specified herein. Direct and indirect costs as used herein shall include, without limitation, any attorneys' fees, expert witness and consultant fees, court costs and other litigation fees, Port Attorney time and overhead costs, and other Port Staff overhead costs and normal day-to-day business expenses incurred by the Port ("Litigation Expenses"). The Indemnified Parties shall have the right to select counsel to represent the Indemnified Parties, at the Project Applicant's expense, in the defense of any action specified in this condition of approval. The Indemnified Parties shall take all reasonable steps to promptly notify the Project Applicant of any claim, demand, or legal actions that may create a claim for indemnification under these conditions of approval.

At **a regular** meeting held **February 18, 2003**

Passed by the following vote:

Ayes: **Commissioners Ayers-Johnson, Kramer, Scates, Tagami, Uribe and President Kiang - 6**

Noes: **None**

Absent: **Commissioner Protopappas - 1** 5



**General Plan Conformity Determination:  
Hegenberger Commercial Project**

**Project and Property Description:** Previously, the Metroport project entailed construction of a total of approximately 1.3 million square feet. The project included Class A office space in five buildings ranging from 180,000 square feet to 336,000 square feet, and ranging from 6 stories to 14 stories (building heights ranged from approximately 98 to 206 feet). The project also included construction of a full-service hotel with approximately 340 rooms in one building of 16 stories (building height approximately 193 feet). The hotel included conference space as well as space for a lobby, restaurant, and retail. About 4,850 parking spaces were provided within two parking garages (building height approximately 64 feet) and on surface parking areas throughout the site. Approximately 50,000 square feet of retail space was incorporated on the ground floor in various project buildings, to support the hotel and office space.

Due to the change in economic conditions since the Metroport project was approved, the project sponsor is now pursuing a different development. In lieu of the previous 1.3 million square feet of office, hotel and retail space, the current project entails construction of approximately 240,000 square feet of regional commercial uses that would create a regional destination along Hegenberger Road. These uses would include an approximately 150,000 square foot major retail tenant; one to two general retail tenants totaling approximately 60,000 square feet; two shop space/quick service food retail tenants totaling approximately 16,000 square feet; and three restaurants (sit down and fast food) totaling approximately 13,800 square feet. All of the uses would be regionally oriented and, therefore, would be supportive of regional drawing power.

The uses would be located in approximately 8 one-story buildings expected to be below 40 feet in height. Compared to the substantial number of parking spaces provided before in the two structures and surface parking, the current development would provide reduced parking of approximately 1,178 surface spaces (none would be located in parking garages). The current proposed development falls within the Retail Alternative analyzed in the Final Environmental Impact Report ("EIR") for the prior Metroport project.

The approximately 23-acre project site is currently vacant except for Oakport Street and the existing gas station located on the northeast corner of Hegenberger Road and Edgewater Drive (southwestern corner of the project site). The project site is generally bounded by Interstate 880 on the east, Hegenberger Road on the south, Doolittle Drive on the west, and the Damon Channel to the north. Oakport Street approaches the project site from the north and bisects the site in an approximately east-west direction as it connects to Edgewater Drive. The portion of the project site north of Oakport Street is surrounded by a cyclone fence and is partially paved in areas. North of Oakport Street, the site contains several shallow depressions that have developed isolated, seasonal wetland characteristics over the years.

The Oakland Airport Business Park consists of mostly one and two-story structures on large lots and with surface parking areas. It includes office, business service, warehouse, distribution, and research and high-rise structures. Along Hegenberger Road and Oakport Street, a number of multi-story office buildings and hotels exist. The Martin Luther King Jr. Regional Shoreline Park runs through the business park and along Damon Slough at the end of Edgewater Drive; San Leandro Creek and the Arrowhead Marsh are located in the Shoreline Park. Along Oakport Drive fronting I-880 lies Zhone Technologies, which occupies a 340,000 square foot headquarters in a campus-like setting, and Rainin Instruments, which



**General Plan Conformity Determination:  
Hegenberger Commercial Project**

occupies 180,000 square feet of office, manufacturing, and research and development facilities. Other uses, such as a medical research facility, manufacturing and office uses, are planned for parcels on Edgewater Drive and Oakport Street. Several parcels further north along Oakport Street have been designated for development as automobile dealerships. Located to the east of the Oakland International Airport, vicinity land uses in the business park consist of distribution, warehousing, office, hotel and light industrial uses. The City of Oakland's maintenance yard and the Alameda County Social Services Agency offices are located on Edgewater Drive.

**General Plan Land Use Designation:** The project site is designated as Business Mix and Regional Commercial by the Oakland General Plan and is located within the Port of Oakland land use jurisdiction. As stated in the General Plan,

“the Business Mix designation is intended to create, preserve and enhance areas of the City that are appropriate for a wide variety of business and related commercial and industrial establishments. High impact industrial uses, including those that may have hazardous materials on-site, may be allowed provided they are adequately buffered from residential areas. High impact or large scale commercial/retail uses should be limited to sites with direct access to the regional transportation system.”

In addition, the General Plan identifies the following desired characteristics and uses for the Business Mix classification,

“these areas may accommodate a mix of businesses such as light industrial, manufacturing, food processing, commercial, bioscience and biotechnology, research and development, environmental technology, business and health services, air, truck and rail-related transportation services, warehouse and distribution facilities, office, and other uses of similar business character.”

The maximum allowable FAR for this classification is 4.0 for non-residential activities.

The General Plan states that the Regional Commercial land use designation is to “maintain, support, and create areas of the City that serve as regional-drawing centers of activity”. These Regional Commercial land uses “...are generally located adjacent to regional transportation facilities where they benefit from good access and visibility and are able to attract patrons from within and outside the City limits”. The desired character of the Regional Commercial designation is “a mix of commercial, office, entertainment, arts, recreation, sports, visitor serving activities, residential mixed use development and other uses of similar character or supportive of regional drawing power.”

**Applicable General Plan Policies:** The General Plan identifies several policies applicable to the proposed project and the project location, including the following:

**Goal I/C 1:** Recognize and support industrial and commercial land use as a primary vehicle for the generation of the economic support required for the attainment of the physical, social and community service goals of the Oakland General Plan.

**Goal I/C 2:** Strengthen and expand Oakland's diverse economic base through land use and transportation decisions.



## General Plan Conformity Determination: Hegenberger Commercial Project

Goal I/C 4: Provide increased employment, training, and educational opportunities through land use and transportation decisions.

Goal I/C 5: Ensure that the Oakland community has access to a wide variety of goods and services, meeting daily and long term needs.

Objective I/C1: Expand and retain Oakland's job base and economic strength.

Policy I/C 1.1: The City will strive to attract new businesses to Oakland which have potential economic benefits in terms of jobs and/or revenue generation. This effort will be coordinated through a citywide economic development strategy/marketing plan which identifies the City's existing economic base, the assets and constraints for future growth, target industries or activities for future attraction, and geographic areas appropriate for future use and development.

Objective I/C 2: Maximize the usefulness of existing abandoned or underutilized industrial buildings and land.

Objective I/C 3: Ensure that Oakland is adequately served by a wide variety of commercial uses, appropriately sited to provide for competitive retail merchandising and diversified office uses, as well as personal and professional services.

Policy I/C 3.1: Commercial uses, which serve long term retail needs of regional consumers and which primarily offer durable goods, should be located in areas adjacent to the I-880 freeway or at locations visible or amenable to high volumes of vehicular traffic, and accessible by multiple nodes of transportation.

Objective I/C4: Minimize land use compatibility conflicts in commercial and industrial areas through achieving a balance between economic development values and community values.

Policy I/C 4.2: The potential for new or existing industrial or commercial uses, including seaport and airport activities, to create nuisance impacts on surrounding residential land uses should be minimized through appropriate siting and efficient implementation and enforcement of environmental and development controls.

Objective T1: Provide adequate infrastructure and land for the needs of rail, shipping, commercial and manufacturing uses, balancing these needs with those of surrounding residential neighborhoods.

Policy T1.4: Encourage, promote, and support region-serving business, tourism industries, and businesses related to the transportation industry, to locate or relocate to Oakland.

Objective W7: Capitalize on the seaport and airport for increased economic activity and jobs in Oakland.

Policy W7.2: Other commercial and industrial uses should be encouraged at appropriate locations (Port owned or not) where they can provide economic opportunity to the community at large.

### ***Open Space, Conservation and Recreation Elements (OSCAR)***

The Open Space, Conservation and Recreation Element (OSCAR; adopted June 11, 1996) addresses the management of open land, natural resources and parks in Oakland. The following OSCAR policies are particularly relevant to the proposed project:

Policy CO-4.2: Require use of drought-tolerant plants to the greatest extent possible and encourage the use of irrigation systems, which minimize water consumption.

Policy CO-13.3: Encourage the use of energy-efficient construction and building materials. Encourage site plans for new development which maximize energy efficiency.



## General Plan Conformity Determination: Hegenberger Commercial Project

**General Plan Conformity Analysis and Determination:** The proposed project conforms to the General Plan as it meets each of the objectives and policies listed above. The site is currently vacant, and has been since the Ramada Inn and theater closed for business a number of years ago. The previous improvements were demolished by the Port in preparation for new development. The Port of Oakland recently sold the property to Simeon in order to promote and allow private development of the site to benefit of the community. This project will bring a significant commercial development to this highly visible and important gateway site.

The development will include a large retail anchor with regional draw, and smaller businesses that will serve both regional traffic from the freeway and local neighborhood customers. There are no residential uses in the vicinity, and therefore no conflicts with residential uses. The Gateway Development Plan identified food services as an under-served sector in this area, and this development will improve food service for area employees and hotel guests. Two major retail tenants and seven smaller retail tenants have yet to be specified, but will certainly improve the variety and availability of services in the neighborhood and the region. Further, the project would greatly expand the local and regional revenue base of the City and Redevelopment Agency, and provide vast employment opportunities and visitor-serving amenities, consistent with the General Plan's intended vision for this area.

The Port's Design Review Committee (DRC) has reviewed the project to insure that the aesthetic quality will enhance the area. Landscaping will improve the streetscape and provide site amenity. Site development includes provisions for pedestrian access around and through the site, between businesses on the site, public transportation, and neighboring facilities. Traffic signals will be added to minimize traffic impacts. Conditions of approval will reference DRC agreements.

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

January 20, 2004  
Item No.: M-1  
TDC:aaa *JOC*

RESOLUTION NO. 04010

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF  
A FIRST AMENDMENT AGREEMENT TO MANAGEMENT  
AGREEMENT WITH EAST BAY REGIONAL PARK DISTRICT  
("PARK DISTRICT") FOR THE PORT OF OAKLAND MIDDLE  
HARBOR SHORELINE PARK, TO PROVIDE FOR LAW  
ENFORCEMENT AT PORT VIEW PARK.**

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**RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of a First Amendment Agreement to the November 5, 2002, Management Agreement between the Port and the Park District for the Port of Oakland Middle Harbor Shoreline Park, to provide for the Park District's law enforcement at Port View Park at an estimated additional yearly expense over the term of the Management Agreement of \$125,062, all in accordance with Agenda Sheet Item No. M-1 dated January 20, 2004 ("Agenda Sheet"); and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of a First Amendment Agreement in accordance with the terms of this resolution. Unless and until a separate written First Amendment 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 the Park District, there shall be no valid or effective First Amendment Agreement.

At a regular meeting held January 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Scates and President Protopappas – 6

Noes: None

Absent: Commissioner Kiang - 1

*WON*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04011

**RESOLUTION APPROVING BUILDING PERMIT  
REQUESTED BY ENTERPRISE RENT A CAR COMPANY  
OF SAN FRANCISCO.**

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**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **ENTERPRISE RENT A CAR COMPANY OF SAN FRANCISCO** ("tenant") for permission to perform certain work at 7600 Earhart Road, Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$5,000, said work and the conditions of Port approval being the following:

- 1) Installation of two floor-to-ceiling partition walls;
- 2) Related electrical and mechanical work;
- 3) Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Guidelines Section 15301(a) and 15269(c); and be it



**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At a regular meeting held January 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Scates and President Protopappas – 6

Noes: None

Absent: Commissioner Kiang - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04012

**RESOLUTION    APPROVING    BUILDING    PERMIT  
REQUESTED BY AVIS RENT A CAR SYSTEM, INC.**

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**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **AVIS RENT A CAR SYSTEM, INC.** ("tenant") for permission to perform certain work at Wright Street at Boeing, North Airport, Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$150,000, said work and the conditions of Port approval being the following:

- 1) Demolition of four buildings (L629, L631, L633 and L635);
- 2) Demolition of a portion of the addition at L621;
- 3) Grading, paving and lighting;
- 4) Installation of landscaping, drainage and other water control features;
- 5) Related electrical and plumbing work;
- 6) Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Guidelines Section 15269(c); and be it

**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At a regular meeting held January 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Scates and President Protopappas – 6

Noes: None

Absent: Commissioner Kiang - 1

1/20/04

S-3

VON:mj

*VON*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04013

**RESOLUTION APPROVING BUILDING PERMIT  
REQUESTED BY AVIS RENT A CAR SYSTEM, INC.**

**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **AVIS RENT A CAR SYSTEM, INC.** ("tenant") for permission to perform certain work at 7600 Earhart Road, Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$25,000, said work and the conditions of Port approval being the following:

- 1) Installation of a new 4'x6' prefabricated booth on a new concrete slab;
- 2) Installation of a new electrical connection to the existing metered panel through an existing conduit;
- 3) Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Guidelines Section 15269(c) and 15303(e); and be it

**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At a regular meeting held January 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Scates and President Protopappas – 6

Noes: None

Absent: Commissioner Kiang - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04014

**RESOLUTION APPROVING BUILDING PERMIT  
REQUESTED BY FEDERAL EXPRESS CORPORATION.**

**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **FEDERAL EXPRESS CORPORATION** ("tenant") for permission to perform certain work at 1 Sally Ride Way (Building M142), Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$74,000, said work and the conditions of Port approval being the following:

- 1) Upgrading the gasoline and diesel underground storage tanks (UST's) at the truck maintenance facility (landside only);
- 2) Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Guidelines Section 15301(f) and 15301(1)(4); and be it

**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At a regular meeting held January 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Scates and President Protopappas – 6

Noes: None

Absent: Commissioner Kiang - 1







2/3/03

VON:mj

*WOW*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04015

**RESOLUTION APPROVING APPOINTMENT OF SPECIAL COUNSEL.**

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**RESOLVED** that the Board of Port Commissioners hereby approves the appointment of **BINGHAM, MCCUTCHEN, LLP**, pursuant to the provisions of Section 6.05 of Port Ordinance No. 867, to render expert assistance to the Port Attorney in connection with the Oak to 9th Property - Silveira Challenge, the compensation of and reimbursement for out-of-pocket expenses incurred by said Special Counsel to be made from time to time as approved by the Port Attorney.

At a regular meeting held February 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Scates and President Protopappas – 6

Noes: None

Absent: Commissioner Kiang - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04016**

**RESOLUTION ADOPTING GENERAL PROGRAM GUIDELINES FOR THE TRUCK PROGRAM ("TRUCK PROGRAM"), ESTABLISHING A PORT EXECUTIVE COMMITTEE FOR THE TRUCK PROGRAM AND AUTHORIZING THE EXECUTIVE DIRECTOR OR DESIGNEE TO APPROVE REIMBURSEMENTS TO VARIOUS TRUCK PROGRAM CONTRACT PARTIES.**

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**RESOLVED** that the Board of Port Commissioners ("Board") hereby adopts the Vision 2000 Air Quality Mitigation Program General Program Guidelines for the Truck Program ("Guidelines") attached as "Attachment B" to Agenda Report Item No. M-1 dated February 3, 2004 ("Agenda Report"), establishes a Port Executive Committee for the Truck Program with the membership and responsibilities set forth in said Guidelines and authorizes the Executive Director or the Executive Director's designee for and on behalf of the Board to approve reimbursements to truck owners, dealerships, salvage yards, and other parties under contract with the Port subject to the provisions of said contract and subject to the overall \$1,480,000 budget for the Truck Program, and encourages Port staff to continue to seek additional funds to further reduce the emissions from on-road trucks that serve the Port's marine and rail terminals, all in accordance with the Agenda Report.

At a regular meeting held February 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kramer, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kiang - 1

**FURTHER RESOLVED** that the Board of Port Commissioners hereby waives competitive bidding for the proposed contracts and approves and authorizes the Executive Director to execute for and on behalf of the Board said contracts based on the receipt of informal proposals, upon terms and conditions consistent with the Agenda Report and subject to the overall budget of \$1,480,000, for the Truck Program; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of contracts in accordance with the terms of this resolution. Unless and until a separate written contract 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 contract.

At a regular meeting held February 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Scates and President Protopappas – 6

Noes: None

Absent: Commissioner Kiang - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04017

RESOLUTION FINDING AND DETERMINING THAT PROPOSED CONTRACTS, WITH RESPECT TO IMPLEMENTATION OF THE VISION 2000 AIR QUALITY MITIGATION PROGRAM GENERAL PROGRAM GUIDELINES FOR THE TRUCK PROGRAM ("TRUCK PROGRAM"), FOR TECHNICAL ASSISTANCE, ADMINISTRATION, AND OUTREACH CONSTITUTE PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, AND FINDING AND DETERMINING THAT IT IS IN THE BEST INTERESTS OF THE PORT TO ENTER INTO CONTRACTS WITH TRUCK DEALERSHIPS, SALVAGE YARDS, OTHER VENDORS AND SERVICE PROVIDERS AND TRUCK OWNERS WITHOUT COMPETITIVE BIDDING, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF ALL SUCH CONTRACTS.

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RESOLVED that based upon the information contained in Board Agenda Report Item No. M-1 dated February 3, 2004 ("Agenda Report"), the Board of Port Commissioners hereby makes the following findings and determinations with respect to the Truck Program:

1) That the proposed contracts for technical assistance, administration, and outreach will constitute contracts 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 without competitive bidding; and

2) That it is in the best interests of the Port to enter into the proposed contracts with truck dealerships, salvage yards, other vendors and service providers, and truck owners without competitive bidding;

and be it

BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND

RESOLUTION NO. 04018

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH STRATEGIC SOLUTIONS PARTNERS FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.

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RESOLVED that based upon the information contained in Board Agenda Sheet Item No. M-2, dated February 3, 2004 (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with STRATEGIC SOLUTIONS PARTNERS for sales and marketing related administrative functions 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 STRATEGIC SOLUTIONS PARTNERS without competitive bidding; and be it

FURTHER RESOLVED that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that STRATEGIC SOLUTIONS PARTNERS shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed \$60,000; and be it

FURTHER RESOLVED that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At a regular meeting held February 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Scates and President Protopappas – 6

Noes: None

Absent: Commissioner Kiang - 1

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At a regular meeting held February 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kiang - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04019

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH HAN-PADRON FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING.

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**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. M-3, dated February 3, 2004 (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with HAN-PADRON for design and installation of U.S. Customs and Border Protection Mandated Radiation Portal Monitors (RPM), preparation of construction documents for as-needed paving and grading and underground conduit installation; as well as construction support services and preparation of as-built drawings 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 HAN-PADRON without competitive bidding; and be it

**FURTHER RESOLVED** that the Executive Director is hereby authorized to begin negotiations with HAN PADRON and to prepare said agreement and upon completion of negotiations, Port staff will request the Board to authorize execution of such agreement upon the terms and conditions presented to the Board at that time; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said Agreement, upon terms and conditions consistent with the Agenda Sheet and providing that HAN PADRON shall be compensated for such services including costs of miscellaneous reimbursable expenses at a maximum compensation that shall not exceed \$210,000; and be it



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04020

**RESOLUTION APPROVING BUILDING PERMIT REQUESTED BY  
U.S. CUSTOMS AND BORDER PROTECTION.**

**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **U.S. CUSTOMS AND BORDER PROTECTION**, for permission to perform certain work at the exit gates of the maritime terminals, Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications and said work and estimated cost as described in Agenda Sheet Item No. M-3, dated February 3, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be exempt as an emergency project under California Public Resource Code Section 21080(b)(4) and to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Guidelines Sections 15301 and 15311; and be it

**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to any party under any agreement between the Port and such party or with respect to any obligation of such party under any rule or regulation, or (ii) releases such party from any obligation with respect to said work or with respect to any agreement between the Port and the party and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At a regular meeting held February 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Scates and President Protopappas – 6

Noes: None

Absent: Commissioner Kiang - 1



**FURTHER RESOLVED,** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At a regular meeting held February 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Scates and President Protopappas – 6

Noes: None

Absent: Commissioner Kiang - 1

**FURTHER RESOLVED,** that the work authorized by this resolution is exempt from the California Environmental Quality Act pursuant to California Public Resources Code, Section 21080(b)(4), and CEQA Guidelines, Section 15269(c); and be it

**FURTHER RESOLVED,** that notwithstanding the fact that the project is exempt from CEQA, the work authorized by this resolution is also subject to categorical exemption pursuant to CEQA Guidelines, Sections 15301 and 15311; and be it

**FURTHER RESOLVED,** that based upon the information contained in Board Agenda Sheet Item No. M-3 dated February 3, 2004, (herein the "Agenda Reports") and all written and oral information received by the Board of Port Commissioners, the Board finds and determines that it is in the best interest of the Port to complete the improvements necessary for the installation of the Radiation Portal Monitors without standard bidding procedures, and such procedures are waived;

**FURTHER RESOLVED,** that the Port may complete the improvements through the issuance of change orders to existing Port contractors, the use of On-Call Paving, Grading and Associated General Contractor Services, or on the open market; and be it

**FURTHER RESOLVED,** that the Project budget for costs of construction and engineering services furnished by consultants shall not exceed the aggregate amount of \$1,500,000; and be it

**FURTHER RESOLVED,** that the Board of Port Commissioners hereby authorizes the Executive Director to negotiate and execute agreements with Battelle Memorial Institute for preliminary analysis, field research, and contract negotiation, design, project management, construction management, and construction support services; and be it

**FURTHER RESOLVED,** that construction services for this project will be covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA"); and be it

**FURTHER RESOLVED,** that a bond for the faithful performance of the work, and a bond to guarantee the payment of all claims for labor and materials furnished and for amounts due under the Unemployment Insurance Code shall be provided by the Port's contractors as prescribed by the applicable laws and regulations and the contract specifications; and be it



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04021

**RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE AGREEMENTS WITH BATTELLE MEMORIAL INSTITUTE TO REIMBURSE PORT FOR COSTS INCURRED TO FACILITATE IMPROVMENTS IN MARITIME TERMINAL SECURITY; WAIVING STANDARD BIDDING PROCEDURES FOR COMPLETION OF NECESSARY IMPROVEMENTS TO FACILITATE INSTALLATION OF RADIATION PORTAL MONITORS.**

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**WHEREAS,** the Customs and Border Protection Bureau of the U.S. Department of Homeland Security has identified the installation of Radiation Portal Monitors as an important and urgent project pursuant to Section 402 of the Homeland Security Act of 2002 and Presidential Homeland Security Directive No. 7; and

**WHEREAS,** the Customs and Border Protection Bureau has engaged the Battelle Memorial Institute, a non-profit corporation chartered in the State of Ohio, to facilitate and manage the installation of Radiation Portal Monitors at U.S. Ports; and

**WHEREAS,** the Battelle Memorial Institute has requested the Port's cooperation and assistance to expeditiously install the Radiation Portal Monitors at the Port's international marine terminals; now, therefore be it

**RESOLVED,** that the Board of Port Commissioners hereby finds and determines that the development and use provided for in the plans and specifications and the subsequent use of the development approved by this resolution are in conformity with the General Plan of the City; and be it

**FURTHER RESOLVED,** that the Director of Engineering is authorized to approve the plans and specifications for said project in advance of construction, pursuant to Government Code Section 830.6; and be it

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

2/3/04  
Item No.: M-3 [5]  
TDC:aaa

RESOLUTION NO. 04022

RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF  
AN AMENDMENT TO NON-EXCLUSIVE PREFERENTIAL  
ASSIGNMENT AGREEMENT WITH SSA TERMINALS, LLC  
("SSAT") (BERTHS 57-59).

---

RESOLVED that the Board of Port Commissioners ("Board"), approves and authorizes execution of an agreement that amends the February 18, 2003, Second Amended and Restated Non-Exclusive Preferential Assignment Agreement with SSAT, Federal Maritime Commission No. 201113-003, ("Agreement") to provide for early occupancy of a portion of the Phase 2 Premises as defined in the Agreement, if and to the extent necessary to accommodate the Radiation Portal Monitors (RPM) Program being implemented by the United States Customs and Border Protection for Berths 57-59, and for such other minor modifications that are consistent with the foregoing amendment on such terms and conditions as may reasonably be determined by the Executive Director and the Port Attorney, all in accordance with Agenda Report Item No. M-3 dated February 3, 2004, and be it

FURTHER RESOLVED that 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. This resolution approves and authorizes the execution of an amendment agreement in accordance with the terms of this resolution. Unless and until a separate written amendment 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 amendment agreement.

At a regular meeting held February 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Scates and President Protopappas – 6

Noes: None

Absent: Commissioner Kiang - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04023

RESOLUTION AUTHORIZING THE DIRECTOR OF MARITIME TO GIVE WRITTEN NOTICE TO CLEAR CHANNEL OUTDOOR, INC. ("CLEAR CHANNEL") TERMINATING CLEAR CHANNEL'S MULTI-YEAR LICENSE AND CONCESSION AGREEMENT (TRI-VISION STRUCTURE BILLBOARD ADJACENT TO THE BAY BRIDGE TOLL PLAZA).

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**RESOLVED** that the Board of Port Commissioners ("Board") hereby authorizes the Director of Maritime for and on behalf of the Board, and in accordance with Agenda Report Item: M-4, February 3, 2004, to: (1) Give written notice to Clear Channel of termination of the Multi-Year License and Concession Agreement dated October 20, 1999, between the Port and Clear Channel for the Tri-Vision Structure billboard adjacent to the Bay Bridge Toll Plaza (Agreement"), in accordance with the Port's right under the Agreement to terminate the Agreement upon at least 180 days' prior written notice to Clear Channel, and to include in said notice of termination an offer to Clear Channel for an exclusive negotiation period of 30 days for a new long-term agreement between the Port and Clear Channel for said Tri-Vision Structure billboard or a replacement (provided, that neither this authorization and inclusion of such language in the notice of termination, nor Clear Channel's acceptance of such offer of exclusive negotiation, will create or constitute a contract or the grant of any right, entitlement or property interest or any obligation or liability on the part of the Port, save and except solely an obligation on the part of the Port to negotiate exclusively with Clear Channel during said 30-day period); and (2) Give notice to Clear Channel of the Port's election in accordance with the Agreement to require Clear Channel to remove the pole and foundation supporting said billboard.

At a regular meeting held February 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Scates and President Protopappas – 6

Noes: None

Absent: Commissioner Kiang - 1

*AK*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04024

RESOLUTION AUTHORIZING THE DIRECTOR OF MARITIME TO GIVE WRITTEN NOTICE TO CLEAR CHANNEL OUTDOOR, INC. ("CLEAR CHANNEL") THAT CERTAIN HOLDING OVER OF MARITIME STREET LEASE PREMISES SHALL BE SUBJECT TO A RENTAL INCREASE, AND TO GIVE WRITTEN NOTICE OF TERMINATION OF SUCH HOLD OVER IF IT IS DETERMINED THAT SUCH TERMINATION IS IN THE PORT'S BEST INTERESTS.

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**RESOLVED** that the Board of Port Commissioners ("Board") hereby authorizes the Director of Maritime for and on behalf of the Board in accordance with Agenda Report Item: M-4, February 3, 2004, to: (1) Give written notice to Clear Channel that any holding over by Clear Channel of the leased premises under the Lease between the Port and **METROMEDIA, INC.** dated February 3, 1964, as amended, shall be subject to an increase in monthly rent effective May 1, 2004, to \$16,000; and (2) Give Clear Channel notice of termination of any holding over at any time if the Director of Maritime determines such termination is in the best interests of the Port.

At a regular meeting held February 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Scates and President Protopappas – 6

Noes: None

Absent: Commissioner Kiang - 1

extension for an additional year with a cost-of-living adjustment is approved in writing by the Executive Director; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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

At a regular meeting held February 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Scates and President Protopappas – 6

Noes: None

Absent: Commissioner Kiang - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04025**

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED SECOND SUPPLEMENTAL AGREEMENT WITH NOSSAMAN, GUTHNER, KNOX & ELLIOTT, LLP FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID SUPPLEMENTAL AGREEMENT.

---

**WHEREAS** by Resolution No. 02069, adopted by the Board of Port Commissioners (the "Board") on March 5, 2002 and as amended by Resolution No. 02136, adopted on May 7, 2002, the Board authorized an Agreement with **NOSSAMAN, GUTHNER, KNOX & ELLIOTT, LLP**, for consulting services with respect to legislative lobbying services; and

**WHEREAS** it is desirable at this time to further amend said Agreement to authorize the Executive Director of the Port to approve additional work under said Agreement as set forth in Agenda Sheet Item No. O-2, dated February 3, 2004 (herein the "Agenda Sheet"), and additional compensation for such work; now, therefore, be it

**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the proposed Second Supplemental Agreement with **NOSSAMAN, GUTHNER, KNOX & ELLIOTT, LLP** 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 **NOSSAMAN, GUTHNER, KNOX & ELLIOTT, LLP** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said First Supplemental Agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **NOSSAMAN, GUTHNER, KNOX & ELLIOTT, LLP** shall be compensated for such services including costs of miscellaneous reimbursable expenses at a maximum compensation that shall not exceed an additional \$120,000 unless (i) additional work up to an additional amount of \$20,000 and (ii)



extension for an additional year with a cost-of-living adjustment is approved in writing by the Executive Director; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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

At a regular meeting held February 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Scates and President Protopappas – 6

Noes: None

Absent: Commissioner Kiang - 1

BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND

RESOLUTION NO. 04026

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED FIRST SUPPLEMENTAL AGREEMENT WITH KATZ, KUTTER, ALDERMAN, AND BRYANT, P.A. FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID SUPPLEMENTAL AGREEMENT.

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WHEREAS by Resolution No. 03255, adopted by the Board of Port Commissioners (the "Board") on September 2, 2003, the Board authorized an Agreement with KATZ, KUTTER, ALDERMAN, AND BRYANT, P.A., for consulting services with respect to federal legislative consulting services; and

WHEREAS it is desirable at this time to further amend said Agreement to authorize the Executive Director of the Port to approve additional work under said Agreement as set forth in Agenda Sheet Item No. O-3, dated February 3, 2004 (herein the "Agenda Sheet"), and additional compensation for such work; now, therefore, be it

RESOLVED that the Board of Port Commissioners hereby finds and determines that the proposed First Supplemental Agreement with KATZ, KUTTER, ALDERMAN, AND BRYANT, P.A. 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 KATZ, KUTTER, ALDERMAN, AND BRYANT, P.A. without competitive bidding; and be it

FURTHER RESOLVED that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said First Supplemental Agreement, upon terms and conditions consistent with the Agenda Sheet and providing that KATZ, KUTTER, ALDERMAN, AND BRYANT, P.A. shall be compensated for such services including costs of miscellaneous reimbursable expenses at a maximum compensation that shall not exceed an additional \$80,000 unless (i) additional work up to an additional amount of \$20,000 and (ii)

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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

At a regular meeting held February 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Scates and President Protopappas – 6

Noes: None

Absent: Commissioner Kiang - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04027**

**RESOLUTION FINDING AND DETERMINING THAT A PROPOSED FIRST SUPPLEMENTAL AGREEMENT WITH GEOLABS, INC. FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID SUPPLEMENTAL AGREEMENT.**

---

**WHEREAS** by Resolution No. 01061, adopted by the Board of Port Commissioners (the "Board") on February 6, 2001, the Board authorized an Agreement with **GEOLABS, INC.**, for consulting services with respect to on-call engineering services for pavement design and analysis; and

**WHEREAS** it is desirable at this time to further amend said Agreement to authorize the Executive Director of the Port to approve additional work under said Agreement as set forth in Agenda Sheet Item No. O-4, dated February 3, 2004 (herein the "Agenda Sheet"); now, therefore, be it

**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the proposed First Supplemental Agreement with **GEOLABS, INC.** 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 **GEOLABS, INC.** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said First Supplemental Agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **GEOLABS, INC.** shall be compensated for such services including costs of miscellaneous reimbursable expenses under the terms of the existing Agreement, and that the term of said agreement, shall be extended for an additional year without additional compensation; and be it



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04028

RESOLUTION AUTHORIZING AND APPROVING THE EXECUTIVE DIRECTOR TO EXECUTE AN INTERIM REPAIR AGREEMENT WITH GENERAL CONSTRUCTION, INC. ("GENERAL"), INCLUDING A PARTIAL WAIVER AND RELEASE OF CLAIMS BY GENERAL.

---

**RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the Executive Director to execute an Interim Repair Agreement with General Construction, Inc., including a partial waiver and release of claims by General to facilitate repair of the defective wharf fender system at Berths 35-37 at a cost not to exceed \$326,000 as addressed in the Port Attorney's February 13, 2004, confidential letter to the Board; and

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At a regular meeting held February 17, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer and Vice-President Scates – 5

Noes: None

Absent: Commissioner Kiang and President Protopappas - 2

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04029

RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A SETTLEMENT AGREEMENT AND RELEASE WITH J.C. PENNEY LIFE INSURANCE COMPANY, NOW KNOWN AS STONEBRIDGE LIFE INSURANCE COMPANY, THE SUCCESSOR IN INTEREST TO BENEFICIAL FIRE AND CASUALTY INSURANCE COMPANY ("JC PENNEY") CONCERNING THE FORMER CRYER BOATYARD SITE, CITY OF OAKLAND V. STEAM VALVE MACHINE COMPANY, ALAMEDA COUNTY SUPERIOR COURT CASE NO. 777068-7.

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**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the execution for and on behalf of the Board a Settlement Agreement and Release with J.C. Penney concerning environmental contamination at the former Cryer Boatyard Site and containing such other reasonably related and consistent terms and conditions as may be negotiated by the Executive Director; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At a regular meeting held February 17, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer and Vice-President Scates – 5

Noes: None

Absent: Commissioner Kiang and President Protopappas - 2

**FURTHER RESOLVED** that a bond for the faithful performance of the work, and a bond to guarantee the payment of all claims for labor and materials furnished and for amounts due under the Unemployment Insurance Code shall be provided by the Contractor as prescribed by the applicable laws and regulations and the contract specifications; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At a regular meeting held February 17, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer and Vice-President Scates – 6

Noes: None

Absent: President Protopappas - 1



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04030**

**RESOLUTION AUTHORIZING THE EXECUTIVE DIRECTOR  
TO EXECUTE AN AGREEMENT FOR THE GUARANTEED  
MAXIMUM PRICE FOR CONSTRUCTION OF THE TERMINAL  
2 EXPANSION AT THE OAKLAND INTERNATIONAL  
AIRPORT.**

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**WHEREAS**, on May 6, 2003, the Port entered into a contract with Turner Construction Company for the services of the Prime Builder for the Oakland International Airport Expansion; and

**WHEREAS**, on November 7, 2003, Turner submitted its initial proposal for the Guaranteed Maximum Price ("GMP") to furnish a complete and fully operational Terminal 2 Project in accordance with the May 6, 2003, contract; and

**WHEREAS**, Turner's proposed GMP contained its assumptions and clarifications regarding the contract; and

**WHEREAS**, the GMP Change Order contains contract modifications, but Turner has withdrawn any clarifications and assumptions not included in the GMP Change Order; and now therefore be it

**RESOLVED** that the Board of Port Commissioners hereby authorizes the Executive Director to execute a GMP Change Order with Turner in accordance with the terms of May 6, 2003, contract and the Agenda Report dated February 17, 2004; and

**FURTHER RESOLVED** that the Director of Engineering is authorized to approve the plans and specifications for said project in advance of construction, pursuant to Government Code Section 830.6; and be it

**FURTHER RESOLVED** that this project will be covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA"); and be it

**FURTHER RESOLVED** that the Board approves the California Environmental Quality Act findings set forth in the "Environmental" section of the Board's February 17, 2004, Agenda Report; and

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically except from requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Article 19, Section 15301(a).

At a regular meeting held February 17, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer and Vice-President Scates – 6

Noes: None

Absent: President Protopappas - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04031**

**RESOLUTION APPROVING PLANS AND SPECIFICATIONS FOR RECONSTRUCTION OF TAXIWAY D AND APRON IMPROVEMENTS ADJACENT TO BUILDING L-812, NORTH FIELD, OAKLAND INTERNATIONAL AIRPORT, OAKLAND, CALIFORNIA, A.I.P. 3-06-0170-24, A.I.P. 3-06-0170-29, AND CALLING FOR BIDS THEREFOR.**

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**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the development and use provided for in the plans and specifications and the subsequent use of the development approved by this resolution are in conformity with the General Plan of the City; and be it

**FURTHER RESOLVED** that the plans and specifications and other provisions relative thereto filed with the Board, based on the information contained in Board Agenda Report Item No. A-2, dated February 17, 2004 (herein "Agenda Report"), for **Reconstruction of Taxiway D and Apron Improvements Adjacent to Building L-812, North Field, Oakland International Airport, Oakland, California, A.I.P. 3-06-0170-24, A.I.P. 3-06-0170-29**, ("the project"), are hereby approved; and be it

**FURTHER RESOLVED** that the Secretary of the Board is hereby authorized to advertise for four consecutive days in the official newspaper of the City of Oakland for sealed bids for the project not less than ten calendar days prior to March 24, 2004, the date set for receiving said bids; and be it

**FURTHER RESOLVED** that this project will be covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA"); and be it,

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement is duly executed on behalf of the Board as authorized by this resolution, is signed by the Port and approved as to form and legality by the Port Attorney, and is delivered to the other contracting party, there shall be no valid or effective agreement.

At a regular meeting held February 17, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer and Vice-President Scates – 6

Noes: None

Absent: President Protopappas - 1

*WON*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04032**

**RESOLUTION APPROVING AND AUTHORIZING A PROGRAM  
SUPPLEMENT AGREEMENT TO DESIGNATE THE CITY OF ALAMEDA  
AS LEAD AGENCY FOR THE REFURBISHMENT OF THE  
ALAMEDA/OAKLAND FERRY SERVICE VESSEL, THE MV ENCINAL.**

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**WHEREAS** the Port of Oakland and the City of Alameda ("Alameda") entered into that certain Agreement Between the City of Alameda and the Port of Oakland (Ferry Service) dated March 20, 1990, as amended ("the Agreement"), and

**WHEREAS** in 1998 the Port of Oakland applied for and was granted federal funding to pay for a portion of the MV Encinal; and

**WHEREAS** in administering the Ferry Service project, including the refurbishment of the ferry service vessel MV Encinal, the City of Alameda has acted as lead agency and has incurred expenses for which it would like to be reimbursed; and be it

**RESOLVED** that the Board hereby ratifies, approves and authorizes the execution of that certain Program Supplement Agreement which formerly transferred administrative authority for the MV Encinal improvements to the City of Alameda as described in Agenda Report Item C-1 dated February 17, 2004 (the Agenda Report), and authorizes the Executive Director to take such additional actions and execute such additional documents as shall be necessary to implement the Program Supplemental Agreement hereby approved; and be it

**FURTHER RESOLVED** that the Board hereby approves and authorizes the execution for and on behalf of the Board of an agreement between the Port and SSAT for The Combined Facility generally in accordance with Agenda Report Item No. M-1 dated February 17, 2004 ("Agenda Report"); and be it

**FURTHER RESOLVED** that the Board finds and determines, based on the information contained in the Agenda Report, that it is in the best interest of the Port to accomplish the Port of Oakland Howard Terminal Improvements project without competitive bidding, and to resolve any bid protests by delegation to the Executive Director of all of the Board's authority under Section 22 of Port Ordinance No. 1606, as amended, with respect to bid protests regarding any proposed contract for said project, and therefore the Board hereby delegates to the Executive Director all of said Board authority with respect to any such bid protest and approves and authorizes the execution for and on behalf of the Board of a contract or contracts for the Howard Terminal Improvements project, at an estimated cost of \$3,584,000, based upon the receipt of informal proposals; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement and contracts in accordance with the terms of this resolution. Unless and until a separate written agreement or separate written contract 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 or contract.

At a regular meeting held February 17, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer and Vice-President Scates – 6

Noes: None

Absent: President Protopappas - 1

BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND

2/17/04  
M-1  
TDC:aaa  
(1 of 2)

*Joe*

RESOLUTION NO. 04033

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RESOLUTION CERTIFYING CONSIDERATION OF INITIAL STUDY AND NEGATIVE DECLARATION FOR THE PORT OF OAKLAND HOWARD TERMINAL IMPROVEMENTS PROJECT, FINDING NO SUBSTANTIAL EVIDENCE OF SIGNIFICANT EFFECT ON THE ENVIRONMENT, APPROVING THE NEGATIVE DECLARATION, APPROVING AND AUTHORIZING EXECUTION OF AN AGREEMENT WITH SSA TERMINALS LLC ("SSAT") FOR THE COMBINED BERTHS 57-59 TERMINAL AND HOWARD TERMINAL ("THE COMBINED FACILITY"), FINDING AND DETERMINING THAT IT IS IN THE BEST INTEREST OF THE PORT TO CONTRACT FOR IMPROVEMENTS TO HOWARD TERMINAL WITHOUT COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF CONTRACTS FOR SUCH WORK BASED ON RECEIPT OF INFORMAL PROPOSALS.

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**RESOLVED** that the Board of Port Commissioners ("Board") hereby certifies that it has considered the Initial Study and proposed Negative Declaration, and public comments to the Initial Study and draft Negative Declaration and the Port's responses thereto, for the project entitled the Port of Oakland Howard Terminal Improvements (said matters considered being herein collectively referred to as the "Initial Study/Negative Declaration"); and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that on the basis of the whole record before it, including the Initial Study/Negative Declaration, and comments received thereon and the Port's responses thereto, there is no substantial evidence that said project will have a significant effect on the environment and, on the basis of the Board's finding that there is no substantial evidence that said project will have a significant effect on the environment, the Board hereby approves and adopts the Final Negative Declaration dated February 13, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and declares that (1) the Final Negative Declaration reflects the independent judgment of the Board, (2) that the location and custodian of the documents or other material which constitute the record of proceedings upon which the Board's decision is based respectively are 530 Water Street, Oakland, California, and the Secretary of the Board and (3) the activities approved by this resolution are in conformity with the General Plan of the City; and be it

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04034**

**RESOLUTION AUTHORIZING ACCEPTANCE OF U.S. DEPARTMENT OF HOMELAND SECURITY, TRANSPORTATION SECURITY ADMINISTRATION GRANT AWARDS AND AUTHORIZING EXECUTION OF GRANT AGREEMENTS BASED ON THE GRANT AWARDS.**

**WHEREAS** the Port has submitted to the U.S. Department of Homeland Security, Transportation Security Administration ("TSA") applications for grants for certain projects which are identified in the Board of Port Commissioner's ("Board") Agenda Report Item No. M-2, dated February 17, 2004 ("Agenda Report"); and

**WHEREAS** the TSA awarded a grant to the Port dated December 10, 2003, approving funding for two of the projects, (Video Surveillance System for Commuter Ferry Docks and Perimeter Surveillance System For Port's JIT); now, therefore, be it

**RESOLVED** that the Board hereby authorizes the acceptance of the TSA Grant Award in the amount of \$315,000 and authorizes the Executive Director or his designee to conduct all negotiations, and to execute and submit all documents which may be necessary or convenient to complete said application for and on behalf of the Board, in accordance with the Agenda Report, and the Secretary is hereby authorized and directed to attest the execution of such grant agreements; provided, however, that such grant agreements shall not be binding or enforceable against the Port unless and until approved in writing as to form and legality by the Port Attorney; and be it

**FURTHER RESOLVED** that this resolution is not evidence of and does not create or constitute (a) a contract(s), or the grant of any right, entitled or property interest, or (b) any obligation or liability on the part of the Board or any officer or employee of the Board. 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 as approved as to form and legality by the Port Attorney, and is delivered to the other contracting party, there shall be no valid or effective agreement(s).

At a regular meeting held February 17, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer and Vice-President Scates - 6

Noes: None

Absent: President Protopappas - 1



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04035

RESOLUTION FINDING AND DETERMINING THAT IT IS IN THE BEST INTEREST OF THE PORT TO WAIVE COMPETITIVE BIDDING AND TO PROCURE CERTAIN GOODS AND SERVICES ON THE OPEN MARKET AND AUTHORIZING THE EXECUTIVE DIRECTOR TO ENTER INTO CONTRACTS FOR SAME.

**RESOLVED** that the Board of Port Commissioners ("Board") does hereby find and determine that it is in the best interest of the Port to waive competitive bidding and to procure on the open market from vendors selected by the Executive Director or his or her designee on the basis of informal quote or proposal not to exceed the maximum amount(s) described in that certain Board of Port Commissioners Agenda Report Item No. C-2, dated February 17, 2004, (hereinafter "Agenda Report"), the following: certain goods and services on open account(s) or other agreements; and be it

**FURTHER RESOLVED** that this Board authorizes the Executive Director or his or her designee to negotiate and enter into contracts for the procurement of same; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At a regular meeting held February 17, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer and Vice-President Scates - 6

Noes: None

Absent: President Protopappas - 1



DLN

3/2/04  
Item No.: O-1  
JEA/LHR JEA

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04036

**RESOLUTION HONORING SANDRÉ R. SWANSON FOR  
HIS MANY YEARS OF DEDICATED SERVICE.**

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**WHEREAS**, SANDRÉ R. SWANSON is retiring from his post as Chief of Staff to the Honorable Barbara Lee of the Ninth Congressional District; and

**WHEREAS**, Mr. Swanson served for 25 years as District Director and Senior Policy Advisor to former Congressman Ronald Dellums; and

**WHEREAS**, during his tenure in these positions, Mr. Swanson has been a tireless advocate of the -50 Foot Harbor Deepening Project among stakeholders at home in the Ninth District and in Washington, DC; and

**WHEREAS**, Mr. Swanson also brought other key Port projects which contribute to economic vitality, the growth of jobs, and the business revenue of the region to the forefront of the legislative agenda of the Ninth Congressional District; and

**WHEREAS**, Mr. Swanson provided valuable assistance in the conversion of the Naval Fleet Industrial Supply Center Oakland helping the Port to secure land to create two new marine terminals; and

**WHEREAS**, the conversion of the Naval Fleet Industrial Supply Center Oakland also allowed for the creation of Middle Harbor Shoreline Park, which will provide the Port's neighbors with a space for recreation and learning; and

**WHEREAS**, Mr. Swanson worked toward the successful conversion of the Oakland Army Base to an area of public ownership and benefit which the Port will be able to develop for future development of its important maritime activities; and

**WHEREAS**, Mr. Swanson has made a concentrated effort to serve the best interests and concerns of the Port's neighboring communities; and

**WHEREAS**, Mr. Swanson has been a leader in cultivating jobs and promoting workforce development in the East Bay through his support of the Port of Oakland; and

**WHEREAS**, Mr. Swanson had dedicated his career to serving the public of the East Bay and has done so with accomplishment and devotion;

**THEREFORE, be it resolved** that the Board of Port Commissioners commends Mr. Swanson on his dedication to the Oakland community and his unwavering commitment to the betterment of the Port of Oakland.

At a regular meeting held March 2, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas – 7

Noes: None

Absent: None

*EMA*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04037

RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A POLICY ENDORSEMENT WITH LEXINGTON INSURANCE FOR BUILDERS RISK INSURANCE; APPROVING AND AUTHORIZING EXECUTION OF AN EXCESS BUILDER'S RISK POLICY; AND AUTHORIZING THE PORT ATTORNEY TO EXECUTE A TOLLING AGREEMENT AND INITIATE LITIGATION AS NECESSARY TO PROTECT THE PORT'S INTERESTS.

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**RESOLVED** that the Board of Port Commissioners ("Port") hereby approves and authorizes the execution for and on behalf of the Board a policy endorsement to the Lexington Insurance Company Builder's Risk Insurance policy for coverage that is non-cancelable (except for non-payment of premium) with policy limits of not less than \$350 million, and consistent with the terms and conditions as may be negotiated by the Executive Director; and be it

**FURTHER RESOLVED** that the Board approves and authorizes the execution for and on behalf of the Board a builder's risk policy that is non-cancelable with limits of \$150 million excess of the Lexington Builder's Risk Insurance policy, and consistent with the terms and conditions as may be negotiated by the Executive Director; and be it

**FURTHER RESOLVED** that the Board approves and authorizes the Port Attorney to execute a tolling agreement with any culpable parties, and, if necessary to protect the Port's interests, initiate a legal action against any culpable parties; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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 the other contracting parties, there shall be no valid or effective agreement.

At a regular meeting held March 2, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None

*[Handwritten initials]*

March 2, 2004  
CLOSED SESSION  
CHA:LST *[Signature]*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04038

**RESOLUTION AUTHORIZING AND APPROVING INCREASED  
EXPENDITURE AUTHORITY OF SPECIAL COUNSEL AND  
NECESSARY EXPERTS.**

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**RESOLVED** that the Board of Port Commissioners hereby authorizes and approves increased expenditure authority of **FARELLA, BRAUN & MARTEL**, as Special Counsel and necessary experts, part-time, pursuant to the provisions of Section 6.05 of Port Ordinance No. 867, to render expert assistance to the Port Attorney in connection with **CITY OF OAKLAND VS. HARDING ESE, INC., MACTEC ENGINEERING & CONSULTING; U.S.D.C. CV 03-03534 CW**; the compensation of and reimbursement for out-of-pocket expenses incurred by said Special Counsel and consultant to be made from time to time as approved by the Port Attorney.

At a regular meeting held March 2, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Scates and President Protopappas – 7

Noes: None

Absent: None

BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND

RESOLUTION NO. 04039

RESOLUTION APPROVING AND AUTHORIZING EXECUTION  
OF A CERTAIN LICENSE AND CONCESSION AGREEMENT  
WITH OAKLAND FUEL FACILITIES CORPORATION.

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Aviation to execute for and on behalf of the Board a certain License and Concession Agreement between the Port and **OAKLAND FUEL FACILITIES CORPORATION**, for approximately 684 square feet of vacant land on the airfield of the South Airport, Oakland, California, at the rate proposed and as otherwise described in Agenda Report Item: A-1, dated March 2, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act and the Port CEQA Guidelines pursuant Article 19 of Guidelines Section 15300.4 and to Class 1 of Guidelines Section 15301(p); and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At a regular meeting held March 2, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04040**

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH RICONDO & ASSOCIATES AT A MAXIMUM COMPENSATION OF \$150,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.

---

**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. **A-2**, dated **March 2, 2004** (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with **RICONDO & ASSOCIATES** for **as-needed aviation planning consulting services** 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 **RICONDO & ASSOCIATES** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **RICONDO & ASSOCIATES** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed **\$150,000**; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At a regular meeting held March 2, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas – 7

Noes: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04041**

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH JACOBS CONSULTANCY, INC. AT A MAXIMUM COMPENSATION OF \$300,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.

---

**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. **A-2**, dated **March 2, 2004** (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with **JACOBS CONSULTANCY, INC.** for **as-needed aviation planning consulting services** 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 **JACOBS CONSULTANCY, INC.** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **JACOBS CONSULTANCY, INC.** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed **\$300,000**; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At a regular meeting held March 2, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas – 7

Noes: None

Absent: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04042**

**RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH HNTB CORPORATION AT A MAXIMUM COMPENSATION OF \$150,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.**

---

**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. **A-2**, dated **March 2, 2004** (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with **HNTB CORPORATION** for **as-needed aviation planning consulting services** 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 **HNTB CORPORATION** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **HNTB CORPORATION** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed **\$150,000**; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At a regular meeting held March 2, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas – 7

Noes: None

Absent: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04043**

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF CERTAIN AGREEMENT TO EXTEND RIGHT-OF-ENTRY AND INDEMNITY AGREEMENT WITH OAKLAND AIRCRAFT, INC., DOING BUSINESS AS OAKLAND AIRCRAFT MAINTENANCE.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Aviation to execute for and on behalf of the Board that certain Agreement to Extend Right-of-Entry and Indemnity Agreement ("Extension Agreement") between the Port and **OAKLAND AIRCRAFT, INC.**, doing business as **OAKLAND AIRCRAFT MAINTENANCE**, for approximately 8,096 square feet of hangar, shop and apron area in and adjacent to Port Building L-710, North Airport, Oakland, California, to continue providing aircraft maintenance and repair services to general aviation tenants at the Airport, at the rate proposed and as more fully described in Agenda Report Item: A-5, dated March 2, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Article 19, Section 15300.4 and Class 1 of Guidelines Section 15301(p); and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At a regular meeting held March 2, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Scates and President Protopappas – 7

Noes: None

Absent: None

*WOW*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04044**

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION  
OF A CERTAIN LICENSE AND CONCESSION AGREEMENT  
WITH 360° GOURMET EXPRESS.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Aviation to execute for and on behalf of the Board a certain License and Concession Agreement between the Port and 360° **GOURMET EXPRESS**, for approximately 240 square feet of storage space, Bldg. M-102, South Airport, Oakland, California, at the rate proposed and as otherwise described in Agenda Report Item: A-6, dated March 2, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act and the Port CEQA Guidelines pursuant to Class 1 of Guidelines Section 15301(p); and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At a regular meeting held March 2, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas – 7

Noes: None

Absent: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04045

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION  
OF A CERTAIN LICENSE AND CONCESSION AGREEMENT  
WITH JESUS M. VALERIO DOING BUSINESS AS  
RAINBOW MOBILE WASH.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Aviation to execute for and on behalf of the Board a certain License and Concession Agreement between the Port and **JESUS M. VALERIO** doing business as **RAINBOW MOBILE WASH**, for continued access to the South Airport, Oakland, California, to provide ground service equipment and aircraft washing services, at the rate proposed and as otherwise described in Agenda Report Item: A-7, dated March 2, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Article 19, Section 15300.4 and Class 1 of Guidelines Section 15301(p); and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At a regular meeting held March 2, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas – 7

Noes: None

Absent: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04046

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF AN  
ACCESS AGREEMENT FOR SURVEY AND EXPLORATION WITH THE  
UNITED STATES OF AMERICA, DEPARTMENT OF THE ARMY.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Aviation to execute for and on behalf of the Board an Access Agreement for Survey and Exploration with **UNITED STATES OF AMERICA, DEPARTMENT OF THE ARMY**, to expand investigations to eight parcels for the purpose of determining whether there is any contamination on the North Airport, Oakland, California, and as otherwise described in Agenda Report Item: A-8 dated March 2, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Class 6 of Guidelines Section 15306; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party or parties, there shall be no valid or effective agreement.

At a regular meeting held March 2, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas – 7

Noes: None

Absent: None

*Handwritten initials*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04047**

**RESOLUTION AUTHORIZING AND APPROVING EXECUTION  
OF AN INTERIM FUNDING AGREEMENT WITH SAN  
FRANCISCO BAY AREA RAPID TRANSIT DISTRICT ("BART"),  
AUTHORIZING THE EXPENDITURE OF UP TO \$1 MILLION  
FOR THE OAKLAND AIRPORT CONNECTOR PROJECT AT  
METROPOLITAN OAKLAND INTERNATIONAL AIRPORT  
("MOIA").**

**RESOLVED** that, based upon information in Agenda Report A-9, dated March 2, 2004, ("Agenda Report"), the Board of Port Commissioners ("Board") does hereby authorize the Executive Director to execute an interim funding agreement with BART, authorizing the expenditure of up to \$1 million for the Oakland Airport Connector project at MOIA upon such additional terms and conditions as may be approved by the Executive Director and the Port Attorney; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of agreements in accordance with the terms of this resolution. For each contracting party, 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 the other contracting party, there shall be no valid or effective agreement.

At a regular meeting held March 2, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Scates and President Protopappas – 7

Noes: None

Absent: None



BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND

RESOLUTION NO. 04048

RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF  
GRANT AGREEMENT WITH THE CALIFORNIA ENERGY  
COMMISSION.

---

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Executive Director to execute for and on behalf of the Board the grant agreement with the **CALIFORNIA ENERGY COMMISSION**, for the grant funding in the amount of \$100,000 for offsetting the cost of purchasing ten compressed natural gas shuttle buses to be used in the Metropolitan Oakland International Airport's parking lots, and in accordance with Agenda Report Item A-10 dated March 2, 2004, and to execute such other documents as may be necessary to obtain the grant funding; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of a grant agreement in accordance with the terms of this resolution. Unless and until a separate written grant agreement 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 other contracting party, there shall be no valid or effective grant agreement.

At a regular meeting held March 2, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas – 7

Noes: None

Absent: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04049**

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION  
OF A CERTAIN LICENSE AND CONCESSION AGREEMENT  
WITH OAKLAND MUSEUM OF CALIFORNIA.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Aviation to execute for and on behalf of the Board a certain License and Concession Agreement between the Port and **OAKLAND MUSEUM OF CALIFORNIA**, for approximately 72 square feet of storage space in the lower level of Terminal I (M-103) and 501 square feet of storage space located in Building L-710, South Airport, Oakland, California, at the rate proposed and as otherwise described in Agenda Report Item: A-11, dated March 2, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act and the Port CEQA Guidelines pursuant to Class 1 of Guidelines Section 15301(p); and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At a regular meeting held March 2, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas – 7

Noes: None

Absent: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04050

RESOLUTION REJECTING ALL BIDS FOR  
INSTALLATION OF FIBER OPTIC CABLES BETWEEN  
SUBSTATIONS SS-1, SS-1A, SS-8, SS-13 AND SS-  
15, OAKLAND INTERNATIONAL AIRPORT, OAKLAND,  
CALIFORNIA, DIRECTING RETURN OF BID BONDS TO  
BIDDERS; AND AUTHORIZING A CONTRACT IN THE  
OPEN MARKET WITHOUT LOWEST-SEALED BID  
PROCEDURES.

---

**RESOLVED** that the four bids received on January 21, 2004, for **Installation of Fiber Optic Cables Between Substations SS-1, SS-1A, SS-8, SS-13 and SS-15, Oakland International Airport, Oakland, California**, are hereby rejected pursuant to Port Ordinance 1606, Section 5, and bid securities accompanying said bids shall be returned to the respective bidders; and be it

**FURTHER RESOLVED** based upon the information contained in Board Agenda Sheet No. A-12, dated March 2, 2004 (herein "Agenda Sheet"), that the Board of Port Commissioners hereby finds and determines that it is in the best interests of the Port to contract for the above-described work without lowest-sealed bid procedures and that said lowest-sealed bid procedures are hereby waived; and be it

**FURTHER RESOLVED** that the Executive Director is hereby authorized to negotiate a contract for such work based upon the receipt of sealed informal proposals which shall be requested from the two lowest bidders whose bids were rejected pursuant to this resolution, Tucker Technology, Inc. and Technical Consulting Group; and be it

**FURTHER RESOLVED** that if the Executive Director is unable to negotiate a contract with either of the two lowest bidders, he is hereby authorized to negotiate and execute a contract for such work in the open market based upon the receipt of informal proposals; and be it

**FURTHER RESOLVED** that pursuant to Port Ordinance 1606, Section 22, the Board finds and determines it to be in the Port's best interest to delegate to the Executive Director, and hereby delegates to the Executive Director, the authority to finally resolve bid protests in connection with this project; and be it

**FURTHER RESOLVED** that this project is subject to the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA"); and be it.

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of a contract in accordance with the terms of this resolution. Unless and until a separate written contract 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 contract.

At a regular meeting held March 2, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Scates and President Protopappas – 7

Noes: None

Absent: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04051

**RESOLUTION APPROVING PLANS AND SPECIFICATIONS FOR  
CONSTRUCTION OF ELECTRICAL SUBSTATION, BUILDING M-363,  
TERMINAL 2, SOUTH FIELD, OAKLAND INTERNATIONAL AIRPORT,  
OAKLAND, CALIFORNIA, A.I.P. 3-06-0170-33, AND CALLING  
FOR BIDS THEREFOR.**

---

**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the development and use provided for in the plans and specifications and the subsequent use of the development approved by this resolution are in conformity with the General Plan of the City; and be it

**FURTHER RESOLVED** that the plans and specifications and other provisions relative thereto filed with the Board, based on the information contained in Board Agenda Report Item No. A-13, dated March 2, 2004 (herein "Agenda Report"), for **Construction of Electrical Substation, Building M-363, Terminal 2, South Field, Oakland International Airport, Oakland, California, A.I.P. 3-06-0170-33**, ("the project"), are hereby approved; and be it

**FURTHER RESOLVED** that the Secretary of the Board is hereby authorized to advertise for four consecutive days in the official newspaper of the City of Oakland for sealed bids for the project not less than ten calendar days prior to April 21, 2004, the date set for receiving said bids; and be it

**FURTHER RESOLVED** that this project will be covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA"); and be it,

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically except from requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Article 19, Section 15301 (Existing Facilities), Section 15303 (New Construction) and Section 15311 (Accessory Structures).

At a regular meeting held March 2, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Scates and President Protopappas – 7

Noes: None

Absent: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04052

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF AN AGREEMENT BETWEEN THE PORT OF OAKLAND, THE CALIFORNIA COASTAL CONSERVANCY, THE CITY OF OAKLAND AND SPANISH SPEAKING UNITY COUNCIL RELATING TO THE PUBLIC'S INTEREST IN CERTAIN UNION POINT PARK IMPROVEMENTS.**

---

**WHEREAS** in March 2003, the Board of Port Commissioners ("Board") approved the execution of a lease between the Port and the City of Oakland for approximately 7 acres of vacant land for the proposed Union Point Park project; and

**WHEREAS** the **CALIFORNIA COASTAL CONSERVANCY** is providing funding for construction of the first phase of the park and the City of Oakland has contracted with **SPANISH SPEAKING UNITY COUNCIL** to develop the park; and

**WHEREAS** the Coastal Conservancy requires an agreement between the Port, the City and Spanish Speaking Unity Council to assure public access to the park improvements funded by the Coastal Conservancy. The Coastal Conservancy requires a public access agreement with the land owner prior to authorizing disbursement of funds for the park improvements; now, therefore, be it

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Commercial Real Estate to execute for and on behalf of the Board an Agreement between the Port and **THE CALIFORNIA COASTAL CONSERVANCY, THE CITY OF OAKLAND** and **SPANISH SPEAKING UNITY COUNCIL**, relating to the public's access to certain Union Point Park improvements, as described in Agenda Report Item: C-1, dated March 2, 2004; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At a regular meeting held March 2, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas – 7

Noes: None

Absent: None



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04053

**RESOLUTION APPROVING AND ACCEPTING BCDC PERMITS INCLUDING PERMIT CONDITIONS FOR VARIOUS COMMERCIAL REAL ESTATE PROJECTS, AND AUTHORIZING THE EXECUTIVE DIRECTOR OR HIS DESIGNEE TO IMPLEMENT BCDC PERMIT CONDITIONS.**

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**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves acceptance of regulatory permits from San Francisco Bay Conservation and Development Commission ("BCDC") and authorizes the Executive Director or his Designee to commit to the fulfillment and implementation of all obligations associated with regulatory authorizations, including executing required agreements with applicable regulatory agencies, issued for the following projects: MarineMax, Inc. (formerly Harrison Boat Center, Incorporated) Tenant Improvements; Homewood Suites Hotel; and Estuary Cove Office Building all in accordance with Agenda Sheet Item No. C-2, dated March 2, 2004; and be it

**FURTHER RESOLVED** that the Board finds and determines, as set forth in the March 2, 2004 Board Agenda Report, that requirements of the California Environmental Quality Act ("CEQA") have been satisfied for each of the subject projects, and that the Board relies upon those CEQA determinations for approval of this resolution; and be it

**FURTHER RESOLVED** that the location and custodian of the documents or other material which constitute the record of proceedings upon which the Board's decision is based respectively are 530 Water Street, Oakland, California, and the Secretary of the Board; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the acceptance of regulatory permits, including implementation of permit conditions and execution of related agreements with applicable regulatory agencies, in accordance with the terms of this resolution. Unless and until a separate written permit and/or agreement 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 other contracting or permitting party, there shall be no valid or effective agreement or permit.

At a regular meeting held March 2, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas – 7

Noes: None

Absent: None

*AM*

3/2/04  
Item No. C-3  
RW:LST *RLS*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04054**

**RESOLUTION SETTING A PUBLIC HEARING ON A PROPOSED  
AMENDMENT OF PORT ORDINANCE NO. 2832, AS AMENDED,  
TO ALLOW FEE PARKING IN AN AREA NEAR PARDEE AND  
SWAN WAY.**

\_\_\_\_\_

**RESOLVED** that the Board of Port Commissioners ("Board") hereby sets a March 2, 2004, 3:00 p.m., public hearing at the Port of Oakland Building, 530 Water Street, 2<sup>nd</sup> floor, in the Board Room, City of Oakland, to consider the approval of an amendment to Port Ordinance No. 2832, as amended, to allow fee parking in an area near Pardee and Swan Way.

At a regular meeting held March 2, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Scates and President Protopappas – 7

Noes: None

Absent: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04055

RESOLUTION APPROVING AND RATIFYING ISSUANCE OF CHANGE ORDER IN THE AMOUNT OF \$329,160 FOR CONTRACT WITH GALLAGHER & BURK, INC., FOR THE CONSTRUCTION OF BERTHS 55/56 CONTAINER YARD, PHASE 3, AND SITE IMPROVEMENTS AT MIDDLE HARBOR SHORELINE PARK, STAGE 2, VISION 2000, OAKLAND, CALIFORNIA.

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**RESOLVED** that pursuant to Port Ordinance 1606, Section 5(i)(3)(iv), the Board directly approves and ratifies an additive change order to **Gallagher & Burk, Inc.**, under the contract for the **Construction of Berths 55/56 Container Yard, Phase 3, and Site Improvements at Middle Harbor Shoreline Park, Stage 2, Oakland, California** for completion of the construction of the cement-treated sand pathways at Middle Harbor Shoreline Park, Stage 2, in a timely manner, in the amount of \$329,200, consistent with Board Agenda Sheet Item No. M-2, dated March 2, 2004, (the "Agenda Sheet"), provided, however, that said change order shall be in a form prepared by the Port Attorney and shall not be effective unless and until it is approved in writing by the Port Attorney; and be it

**FURTHER RESOLVED** that the work required by these change orders will be covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA").

At a regular meeting held March 2, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04056**

**RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH RALPH D. GIN AT A MAXIMUM COMPENSATION OF \$52,800 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.**

---

**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. **M-3**, dated **March 2, 2004** (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with **RALPH D. GIN** to complete the fiscal closeout of the **-42 foot Dredging Project** and review technical submittals relating to the **-50 foot Dredging Project** 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 **RALPH D. GIN** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **RALPH D. GIN** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed **\$52,800**; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At a regular meeting held March 2, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas – 7

Noes: None

Absent: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04057

**RESOLUTION APPROVING PLANS AND SPECIFICATIONS FOR  
CONSTRUCTION OF BERTHS 32/33 REHABILITATION, OUTER  
HARBOR, OAKLAND, CALIFORNIA, AND CALLING FOR BIDS  
THEREFOR.**

---

**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the development and use provided for in the plans and specifications and the subsequent use of the development approved by this resolution are in conformity with the General Plan of the City; and be it

**FURTHER RESOLVED** that the plans and specifications and other provisions relative thereto filed with the Board, based on the information contained in Board Agenda Report Item No. M-6, dated March 2, 2004 (herein "Agenda Report"), for **Construction of Berths 32/33 Rehabilitation, Outer Harbor, Oakland International Airport, Oakland, California**, ("the project"), are hereby approved; and be it

**FURTHER RESOLVED** that the Secretary of the Board is hereby authorized to advertise for four consecutive days in the official newspaper of the City of Oakland for sealed bids for the project not less than ten calendar days prior to April 21, 2004, the date set for receiving said bids; and be it

**FURTHER RESOLVED** that this project will be covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA"); and be it,

**FURTHER RESOLVED** that the Board finds that on January 23, 2003, pursuant to Resolution 03010, the Board certified the Initial Study/Negative Declaration, indicating that this project would have no significant environmental impact and the project has not substantially changed since that time.

At a regular meeting held March 2, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Scates and President Protopappas – 7

Noes: None

Absent: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND  
RESOLUTION NO. 04058**

**RESOLUTION APPROVING CONSENT TO ASSIGNMENT  
OF RIGHTS FROM D SQUARED BUSINESS CONSULTING  
TO ARMANINO MCKENNA, LLP, FOR CERTAIN  
EXISTING CONSULTANT AGREEMENTS.**

---

**WHEREAS** on September 3, 2002 (and April 1, 2004 for the First Supplemental Agreement), the Board of Port Commissioners ("Board") approved certain consultant agreements with **D SQUARED BUSINESS CONSULTING** for consulting services in connection with processing standards leading to certification under ISO 9001-2000; now, therefore be it

**RESOLVED** that the Board consents and hereby grants the assignment of said above-referenced consultant agreements to **ARMANINO MCKENNA LLP** provided that such consent is granted upon the express condition that **ARMANINO MCKENNA LLP** shall assume all of the obligations and liabilities of **D SQUARED BUSINESS CONSULTING** under said consultant agreements, whether the obligations or liabilities arose before or after the effective date of the assignment and that **D SQUARED BUSINESS CONSULTING** is not hereby released from any obligation or liability under said consultant agreements, whether the obligation or liability arose before or after the effective date of the assignment to **ARMANINO MCKENNA LLP** as more fully set forth in Agenda Item No. O-3, dated March 2, 2004; and be it



**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At a regular meeting held March 2, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas – 7

Noes: None

Absent: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04059**

**RESOLUTION RATIFYING AND APPROVING CONTRACTS WITH  
DELL MARKETING, L.P., FOR LEASE OF COMPUTERS AND  
APPROVING AND AUTHORIZING FUNDING FOR SAME.**

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**RESOLVED** that the Board of Port Commissioners (hereinafter "Board") hereby ratifies and approves certain agreements with **Dell Marketing, L.P.**, to lease, with option to purchase, 600 computers for a term of 36 months, commencing January 30, 2004, and authorizes and approves funding therefore, including set-up of the Dell computers and disposal of existing computers, not to exceed \$780,000; and be it

**FURTHER RESOLVED** that the Board hereby authorizes the Executive Director to exercise the purchase option for any such number of the Dell computers as he may determine is in the best interest of the Port; and be it

**FURTHER RESOLVED** that this resolution is not evidence of and does not create or constitute (a) a contract, agreement 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. This resolution approves and authorizes the execution of said agreement in accordance with the terms of this resolution. 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, there shall be no valid or effective agreement.

At a regular meeting held March 2, 2004

Passed by the following vote:

Ayes: Commissioners Batarse, Kiang, Kramer,  
Scates and President Protopappas - 5

Noes: Commissioners Ayers-Johnson and Katzoff - 2

Absent: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04060

**RESOLUTION AUTHORIZING THE RENEWAL OF DIFFERENCE  
IN CONDITIONS (DIC) INSURANCE ON 530 WATER  
STREET, OAKLAND, CALIFORNIA FOR AN AMOUNT NOT TO  
EXCEED \$110,000.**

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**RESOLVED** that the Board of Port Commissioners hereby authorizes the renewal of the Difference in Conditions (DIC) Insurance on 530 Water Street, Oakland, California for an amount not to exceed \$110,000 for the term of March 9, 2004 to March 9, 2005, in accordance with Agenda Sheet Item No. O-5, dated March 2, 2004, (herein the "Agenda Sheet"), provided, however, that said insurances shall be approved in writing as to form and legality by the Port Attorney.


At a regular meeting held March 2, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None



March 2, 2004  
Item No.: O-7  
PBH/jev

BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND

RESOLUTION NO. 04061

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED CONSULTANT AGREEMENT WITH MERRIWETHER & WILLIAMS INSURANCE SERVICES CORPORATION AT A MAXIMUM COMPENSATION OF \$25,000 FOR A SURETY BOND GUARANTEE PROGRAM AND VARIOUS FUNDS CONTROL AND ACCOUNTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.

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**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. O-7, dated March 2, 2004, (herein the "Agenda Sheet") the Board of Port Commissioners hereby finds and determines that an Agreement with **MERRIWETHER & WILLIAMS INSURANCE SERVICES CORPORATION** for administration of the Port of Oakland's Bonding and Financing Services Program 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 without competitive bidding; and be it

**FURTHER RESOLVED** that **MERRIWETHER & WILLIAMS INSURANCE SERVICES CORPORATION** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation not to exceed **\$25,000**, upon terms and conditions set forth in the Agenda Sheet; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At a regular meeting held March 2, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None



*DLA*

3/16/04

-R-

MCP:mj

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04062

**RESOLUTION RATIFYING AND APPROVING TENTATIVE  
MEMORANDUM OF UNDERSTANDING WITH SERVICE EMPLOYEES  
INTERNATIONAL UNION, LOCAL 790.**

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**RESOLVED** that the terms and conditions of the tentative Memorandum of Understanding regarding wages, hours and other terms and conditions of employment between the **SERVICE EMPLOYEES INTERNATIONAL UNION, LOCAL 790** and the Port of Oakland for a forty-eight month term commencing July 1, 2002, through and including June 30, 2006, are hereby ratified and approved; and be it

**FURTHER RESOLVED** that the Executive Director is hereby authorized to execute said tentative Memorandum of Understanding for and on behalf of this Board, provided, however, the same shall be approved as to form and legality by the Port Attorney.

At a regular meeting held March 16, 2004

Passed by the following vote:

Ayes: Commissioners Katzoff, Kramer, Scates  
and President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Kiang - 3

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04063

**RESOLUTION AUTHORIZING AND APPROVING INCREASED  
EXPENDITURE AUTHORITY OF SPECIAL COUNSEL.**

**RESOLVED** that the Board of Port Commissioners hereby authorizes and approves increased expenditure authority of **WULFSBERG, REESE, COLVIG & FIRSTMAN**, as Special Counsel, part-time, pursuant to the provisions of Section 6.05 of Port Ordinance No. 867, to render expert assistance to the Port Attorney in connection with **Pacific Coast Building Products, Inc. v. Lumberman's Mutual Casualty Company, et al., Alameda No. 2001-024620; (Claims of O.C. Jones & Sons, Inc. arising from construction of the Hanjin Terminal)**; the compensation of and reimbursement for out-of-pocket expenses incurred by said Special Counsel to be made from time to time as approved by the Port Attorney.

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katzoff - 3



4/6/04

VON:mj

*[Handwritten signature]*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04064

**RESOLUTION AUTHORIZING AND APPROVING RETENTION  
OF SPECIAL COUNSEL.**

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**RESOLVED** that the Board of Port Commissioners hereby ratifies and approves the appointment of **WENDEL ROSEN BLACK & DEAN, LLP**, pursuant to the provisions of Section 6.05 of Port Ordinance No. 867, to render expert assistance to the Port Attorney in connection with the Port of Oakland Marinas and related matters, the compensation of and reimbursement for out-of-pocket expenses incurred by said Special Counsel to be made from time to time as approved by the Port Attorney.

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katsoff - 3

4/6/04

VON:mj

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04065

**RESOLUTION AUTHORIZING AND APPROVING RETENTION  
OF SPECIAL COUNSEL.**

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**RESOLVED** that the Board of Port Commissioners hereby ratifies and approves the appointment of **WENDEL ROSEN BLACK & DEAN, LLP**, pursuant to the provisions of Section 6.05 of Port Ordinance No. 867, to render expert assistance to the Port Attorney in connection with the sale of Port owned property and related matters, the compensation of and reimbursement for out-of-pocket expenses incurred by said Special Counsel to be made from time to time as approved by the Port Attorney.

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katzoff - 3

*JM*

4/6/04  
VON:mj *VON*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04066

RESOLUTION APPROVING APPOINTMENT OF SPECIAL COUNSEL.

---

**RESOLVED** that the Board of Port Commissioners hereby approves the appointment of **STOEL RIVES, LLP**, pursuant to the provisions of Section 6.05 of Port Ordinance No. 867, to render expert assistance to the Port Attorney in connection with the Oak to 9th Property - Silveira Challenge, the compensation of and reimbursement for out-of-pocket expenses incurred by said Special Counsel to be made from time to time as approved by the Port Attorney.

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katzoff - 3

*JEA*

BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND

RESOLUTION NO. 04067

RESOLUTION AUTHORIZING PORT ATTORNEY TO RETAIN  
WORKERS' COMPENSATION DEFENSE COUNSEL

---

**Whereas**, the Port of Oakland is permissibly self-insured and self administered for workers' compensation liabilities pursuant to the law of the state of California, now therefore be it

**Resolved** that the Port Attorney be and he is hereby authorized to retain workers compensation defense counsel who specialize in workers' compensation law at an annual cost not to exceed \$65,000.

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katzoff - 3

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04068

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF  
CERTAIN AGREEMENT TO EXTEND RIGHT-OF-ENTRY AND  
INDEMNITY AGREEMENT WITH OAKLAND AIRCRAFT, INC.,  
DOING BUSINESS AS OAKLAND AIRCRAFT MAINTENANCE.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Aviation to execute for and on behalf of the Board that certain Agreement to Extend Right-of-Entry and Indemnity Agreement ("Extension Agreement") between the Port and **OAKLAND AIRCRAFT, INC.**, doing business as **OAKLAND AIRCRAFT MAINTENANCE**, for approximately 50,299 square feet of hangar, apron, parking and unpaved land in and adjacent to Port Building L-908, North Airport, Oakland, California, to continue providing aircraft maintenance and repair services to general aviation tenants at the Airport, at the rate proposed and as more fully described in Agenda Report Item: A-1, dated April 6, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Article 19, Section 15300.4 and Class 1 of Guidelines Section 15301(p); and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, no valid or effective agreement.

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katzoff - 3

CEQA Guidelines, Article 18, Statutory Exemptions, Section 15269(c) for emergency projects. The cited sections exempt from CEQA compliance specified discretionary action, that otherwise would be subject to CEQA review. A Notice of Exemption was filed on December 5, 2001 pursuant to CEQA Guidelines Section 15269(c) for emergency projects; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katzoff - 3

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04069

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION  
OF A FIRST SUPPLEMENTAL AGREEMENT WITH AVIS  
RENT A CAR SYSTEM, INC.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Aviation to execute for and on behalf of the Board a certain First Supplemental Agreement between the Port and **AVIS RENT A CAR SYSTEM, INC.**, to add an approximately 142,441.2 square foot of land to Avis' existing premises at the North Airport, Oakland, California, at the rate proposed and as otherwise described in Agenda Report Item: A-2, dated April 6, 2004; and be it

**FURTHER RESOLVED** that the Airport Development Program (ADP) has a "Landside Access" component that includes Replacement Rental Car Services Facilities (project B.5). The Board certified an Environmental Impact Report (EIR) and a Supplemental EIR respectively in 1997 and 1999. Replacing the rental car facilities is included in the ADP EIR analysis. A Notice of Determination, which relied on the ADP EIR, was filed with the County of Alameda on November 27, 2001 for interim rental car facilities. The Port determined that pursuant to the California Environmental Quality Act (CEQA) Guidelines Sections 15162 and 15163 no subsequent or supplemental EIR is required with respect to the B.5 project component of the ADP; and be

**FURTHER RESOLVED** that alternatively, the project is now necessary for airport security to comply with FAA-mandated restrictions that prohibit parking within 300 feet of terminal buildings. CEQA recognizes the need to exempt projects during emergencies in order to protect public safety. The proposed project is exempt pursuant to Public Resources Code, Section 21080 (b)(4) and

resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katzoff - 3



4/6/04  
Item No.: A-3  
VON:mj *von*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04070**

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF  
A CERTAIN LICENSE AND CONCESSION AGREEMENT WITH  
SOUTHWEST AIRLINES CO.**

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**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Aviation to execute for and on behalf of the Board that certain License and Concession Agreement between the Port and **SOUTHWEST AIRLINES CO.** for approximately 5,415 square feet of space in the Cargo Building, Building M106, Oakland International Airport, Oakland, California, at the rate proposed and as more fully described in Agenda Report Item No. A-3, dated April 6, 2004 ("Agenda Report"); and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that the ground service equipment maintenance center, and associated environmental impacts, were studied and analyzed in the Port's 1999 Airport Development Program ("ADP") Environmental Impact Report ("EIR"), including the Port's 1999 and 2003 ADP supplemental EIR analyses and reports, as described in the Agenda Report; and be it

**FURTHER RESOLVED** that alternatively, the Board finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act ("CEQA") and the Port CEQA Guidelines pursuant to Article 19, Section 15.300.4 of the CEQA Guidelines, and Port CEQA Guidelines Section 15301(p); and be it

**FURTHER RESOLVED** that 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. This

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04071**

**RESOLUTION APPROVING AND AUTHORIZING  
EXECUTION OF A FIRST SUPPLEMENTAL  
AGREEMENT WITH SOUTHWEST AIRLINES CO.  
ANNEX "A" SPACE/USE PERMIT.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves a First Supplemental Agreement to the Annex "A" Space/Use Permit ("Agreement"), dated October 15, 2000, with **Southwest Airlines Co.**, authorizing a rental credit not to exceed \$25,000 for construction of tenant improvements in Terminal 1 at Oakland International Airport, as described in accordance with Agenda Report No. A-4 dated April 6, 2004, or an agreement containing such other reasonably related and consistent terms and conditions as may be negotiated by the Executive Director; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katzoff - 3

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04072**

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF  
AN AMENDMENT TO LEASE WITH BUSINESS JET CENTER-  
OAKLAND, L.P.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Aviation to execute for and on behalf of the Board that certain amendment ("Amendment") to that certain Lease dated June 19, 2001, between the Port and **BUSINESS JET CENTER-OAKLAND, L.P.**, as Lessee, to delete certain space from the premises as more fully set forth in Agenda Report Item No. A-5, dated April 6, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Class 1 of Guidelines Section 15301(p); and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katzoff - 3

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04073

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF  
A CERTAIN LICENSE AND CONCESSION AGREEMENT WITH  
CORINTHIAN COLLEGES, INC.**

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**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Aviation to execute for and on behalf of the Board that certain License and Concession Agreement between the Port and **CORINTHIAN COLLEGES, INC.**, for approximately 21,868 square feet of vehicle parking area near Building L-105 and 86,026 square feet of classroom, office, parking and unpaved land in and around Buildings L-105 and L-825, Oakland International Airport, Oakland, California, at the rate proposed and as more fully described in Agenda Report Item No. A-5, dated April 6, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Class 1 of Guidelines Section 15301(p); and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katzoff - 3

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04074

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF  
A CERTAIN LICENSE AND CONCESSION AGREEMENT WITH  
K. S. AVIATION, INC.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Aviation to execute for and on behalf of the Board that certain License and Concession Agreement between the Port and **K.S. AVIATION, INC.**, for occupancy of approximately 53,883 square feet of classroom, office, parking, unpaved land and apron in and around Building L-130, Oakland International Airport, Oakland, California, at the rate proposed and as more fully described in Agenda Report Item No. A-5, dated April 6, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Class 1 of Guidelines Section 15301(p); and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katzoff - 3

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04075

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF  
A CERTAIN LICENSE AND CONCESSION AGREEMENT WITH  
COMPANIA MEXICANA de AVIACION, S.A. de C.V. DOING  
BUSINESS AS MEXICANA AIRLINES.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Aviation to execute for and on behalf of the Board that certain License and Concession Agreement between the Port and **COMPANIA MEXICANA de AVIACION, S.A. de C.V. DOING BUSINESS AS MEXICANA AIRLINES**, for approximately 2,200 square feet of warehouse space in Building M-112, Oakland International Airport, Oakland, California, at the rate proposed and as more fully described in Agenda Report Item No. A-6, dated April 6, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Article 19, Section 15300.4 and Class 1 of Guidelines Section 15301(p); and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katzoff - 3

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04076

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH MESTRE GREVE ASSOCIATES, INC. AT A MAXIMUM COMPENSATION OF \$150,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.

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RESOLVED that based upon the information contained in Board Agenda Sheet Item No. A-8, dated April 6, 2004 (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with MESTRE GREVE ASSOCIATES, INC. for aircraft noise consulting services 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 MESTRE GREVE ASSOCIATES, INC. without competitive bidding; and be it

FURTHER RESOLVED that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that MESTRE GREVE ASSOCIATES, INC. shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed \$150,000; and be it

FURTHER RESOLVED that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katzoff - 3

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04077

**RESOLUTION RATIFYING AND APPROVING SUBMITTAL OF A  
GRANT APPLICATION TO FEDERAL AVIATION ADMINISTRATION  
UNDER THE AIRPORT IMPROVEMENT PROGRAM.**

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**RESOLVED** that the Board of Port Commissioners hereby finds and determines it is in the best interest of the Port to ratify and approve the February 20, 2004, submittal of a grant application to the Federal Aviation Administration for the projects more fully set forth in Agenda Report Item No. A-9, dated April 6, 2004 ("Agenda Report"), for approximately \$12,847,312.00 in entitlement funds, containing the terms and conditions as more fully set forth in said Agenda Report.

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katzoff - 3



**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Section 15301, existing conditions.

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katzoff - 3

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04078**

**RESOLUTION APPROVING PLANS AND SPECIFICATIONS (PROJECT MANUAL) FOR FURNISHING SERVICE AND MAINTENANCE FOR PASSENGER BOARDING BRIDGES FOR THE PERIOD COMMENCING JULY 1, 2004 AND ENDING JUNE 30, 2005, 2006, 2007 OR 2008; AND CALLING FOR BIDS THEREFOR.**

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**RESOLVED** that the plans and specifications and other provisions relative thereto filed with the Board, based on the information contained in Board Agenda Report Item No. A-10, dated April 6, 2004 (herein "Agenda Report"), for **Furnishing Service and Maintenance for Passenger Boarding Bridges for the Period Commencing July 1, 2004 and Ending June 30, 2005, 2006, 2007 or 2008, Oakland, California**, ("the project"), are hereby approved; and be it

**FURTHER RESOLVED** that the Secretary of the Board is hereby authorized to advertise for four consecutive days in the official newspaper of the City of Oakland for sealed bids for the project not less than ten calendar days prior to May 12, 2004, the date set for receiving said bids; and be it

**FURTHER RESOLVED** that this project is not for "major maintenance" within the meaning of the Port of Oakland Maritime and Aviation Project Labor Agreement ("MAPLA") and will not be part of the Port's Capital Improvement Program ("CIP") and therefore will not be covered by the provisions of the MAPLA; and be it,

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04079

RESOLUTION APPROVING ISSUANCE OF CHANGE ORDER IN THE AMOUNT OF \$212,934 FOR CONTRACT WITH GALLAGHER & BURK, INC., FOR CONSTRUCTION OF THE RELOCATED JOHN GLENN DRIVE AND ASSOCIATED UTILITIES, OAKLAND, CALIFORNIA FOR DELETION OF SCOPE.

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**RESOLVED** that pursuant to Port Ordinance 1606, Section 5(i)(3)(iv), the Board directly approves the issuance of a deductive change order to **Gallagher & Burk, Inc.**, under the contract for the **Construction of Relocated John Glenn Drive and Associated Utilities, South Field, Oakland International Airport, Oakland, California** for modification of fencing, modification of utilities/roadway and extension of completion date, in the amount of \$212,934.00, consistent with Board Agenda Report Item No. A-11, dated April 6, 2004, (the "Agenda Report"), provided, however, that said change order shall be in a form prepared by the Port Attorney and shall not be effective unless and until it is approved in writing by the Port Attorney; and be it

**FURTHER RESOLVED** that the work required by these change orders will be covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA").

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katzoff - 3

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04080

**RESOLUTION APPROVING AND AUTHORIZING MODIFICATION  
OF PROMISSORY NOTE AND DEED OF TRUST WITH  
ARROWHEAD MARSH PARTNERS LLC.**

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**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the modification of the \$8,002,000 Promissory Note and Deed of Trust with **ARROWHEAD MARSH PARTNERS LLC**, to provide for annual payments of \$915,450.37 per year commencing on April 30, 2005, and as otherwise set forth in Agenda Report Item No. C-1 dated April 6, 2004; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party or parties, there shall be no valid or effective agreement.

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katzoff - 3

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Section 15301(b), (c), (d) and (f) (Class 1), which address repair and maintenance of existing facilities with no expansion of use beyond that previously existing.

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katzoff - 3

BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND

RESOLUTION NO. 04081

RESOLUTION APPROVING PLANS AND SPECIFICATIONS (PROJECT MANUAL) FOR FURNISHING LABOR, MATERIALS, AND EQUIPMENT FOR RECONDITIONING, MAINTAINING AND REPAIRING PORT OF OAKLAND RAILROAD TRACKS AND CRANE RAILS FOR THE PERIOD COMMENCING JULY 1, 2004 AND ENDING JUNE 30, 2005, 2006 OR 2007; AND CALLING FOR BIDS THEREFOR.

**RESOLVED** that the plans and specifications and other provisions relative thereto filed with the Board, based on the information contained in Board Agenda Report Item No. M-2, dated April 6, 2004 (herein "Agenda Report"), for **Furnishing Labor, Materials, and Equipment for Reconditioning, Maintaining and Repairing Port of Oakland Railroad Tracks and Cranes Rails for the Period Commencing July 1, 2004 and Ending June 30, 2005, 2006 or 2007, Oakland, California**, ("the project"), are hereby approved; and be it

**FURTHER RESOLVED** that the Secretary of the Board is hereby authorized to advertise for four consecutive days in the official newspaper of the City of Oakland for sealed bids for the project not less than ten calendar days prior to May 12, 2004, the date set for receiving said bids; and be it

**FURTHER RESOLVED** that this project is not for "major maintenance" within the meaning of the Port of Oakland Maritime and Aviation Project Labor Agreement ("MAPLA") and will not be part of the Port's Capital Improvement Program ("CIP") and therefore will not be covered by the provisions of the MAPLA; and be it,

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04082

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RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF AGREEMENTS WITH PACIFIC GAS AND ELECTRIC COMPANY (PG&E) FOR PURPOSES OF PROVIDING ELECTRIC POWER FOR DREDGING.

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**RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of an agreement or agreements with PG&E, including an absolving service agreement, providing for PG&E's use of the Port's electric distribution facilities for purposes of PG&E's providing electric power for purposes of dredging Oakland harbor channels and adjacent water areas, in accordance with Agenda Report Item M-3, dated April 6, 2004, containing such reasonable terms and conditions consistent with the Agenda Report as may be negotiated by the Executive Director; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement or agreements in accordance with the terms of this resolution. 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.

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katzoff - 3

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04083

**RESOLUTION FINDING AND DETERMINING THAT IT IS IN THE BEST INTEREST OF THE PORT TO WAIVE COMPETITIVE BIDDING FOR PROCUREMENT OF CRANE POWER SUBSTATION EQUIPMENT FOR THE BERTHS 32/33 WHARF REHABILITATION PROJECT, OUTER HARBOR AND TO PROCURE SAID EQUIPMENT ON THE OPEN MARKET AND AUTHORIZING THE EXECUTIVE DIRECTOR TO ENTER INTO CONTRACTS FOR SAME.**

**RESOLVED** that based upon the information contained in Board Agenda Report Item No. M-4, dated April 6, 2004, (herein the "Agenda Report"), the Board of Port Commissioners ("Board") hereby finds and determines that calling for bids on a competitive basis is impracticable and unavailing and therefore it is in the best interest of the Port to accomplish the procurement of crane power substation equipment for the Berths 32/33 Wharf Rehabilitation Project without competitive bidding and that said competitive bidding is hereby waived; and be it

**FURTHER RESOLVED** that the Board hereby approves and authorizes procurement of said equipment on the open market based upon receipt of informal proposals, and further authorizes and approves execution of a contract therefor, at a cost of approximately \$300,000; and be it

**FURTHER RESOLVED** that this resolution is not evidence of and does not create or constitute (a) a contract(s), or the grant of any right, entitlement or property interest, or (b) any obligation of liability on the part of the Board or any officer or employee of the Board. 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 as approved as to form and legality by the Port Attorney, and is delivered to the other contracting party, there shall be no valid or effective agreement(s).

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katzoff - 3



**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katzoff - 3

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04084**

**RESOLUTION FINDING AND DETERMINING THAT A PROPOSED FIRST SUPPLEMENTAL AGREEMENT WITH HDR ENGINEERING, INC. FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID SUPPLEMENTAL AGREEMENT.**

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**WHEREAS** by Resolution No. 01188, adopted by the Board of Port Commissioners (the "Board") on May 8, 2001, the Board authorized an Agreement with **HDR ENGINEERING, INC.**, for consulting services with respect to On-call engineering design services for railroad facilities in the Maritime Support Center, Vision 2000; and

**WHEREAS** it is desirable at this time to further amend said Agreement to authorize the Executive Director of the Port to approve extension of term for an additional three (3) years under said Agreement as set forth in Agenda Sheet Item No. M-5, dated April 6, 2004 (herein the "Agenda Sheet"), without additional compensation for such work; now, therefore, be it

**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the proposed First Supplemental Agreement with **HDR ENGINEERING, INC.** 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 **HDR ENGINEERING, INC.** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said First Supplemental Agreement, upon terms and conditions consistent with the Agenda Sheet; and be it

and other parties under contract with the Port with respect to the Truck Repowering Project subject to the provisions of said contract and subject to the Carl Moyer Program grant funds available to the Port, all in accordance with the Agenda Report; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of agreements in accordance with the terms of this resolution. Unless and until separate written agreements is duly executed on behalf of the Board as authorized by this resolution, are signed as approved as to form and legality by the Port Attorney, and are delivered to other contracting party, there shall be no valid or effective agreements.

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katzoff - 3

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04085**

RESOLUTION AUTHORIZING EXECUTION OF AGREEMENTS WITH BAY AREA AIR QUALITY MANAGEMENT DISTRICT ("DISTRICT") FOR PORT'S ACCEPTANCE AND USE OF CARL MOYER PROGRAM FUNDS TO BE GRANTED BY THE DISTRICT TO THE PORT FOR REPLACEMENT OF ENGINES IN HEAVY-DUTY TRUCKS ("TRUCK REPOWERING PROJECT"), AMENDING GENERAL PROGRAM GUIDELINES FOR THE VISION 2000 AIR QUALITY TRUCK PROGRAM ("TRUCK PROGRAM"), AND AUTHORIZING THE EXECUTIVE DIRECTOR OR DESIGNEE TO APPROVE REIMBURSEMENTS TO VARIOUS REPOWERING PROJECT CONTRACT PARTIES.

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**RESOLVED** that the Board of Port Commissioners ("Board") hereby accepts, and authorizes the Executive Director on behalf of the Board to execute necessary agreements with the District for the acceptance and use of, the grant of Carl Moyer Program funds approved by the District for Port use, consisting of the grant of \$1,000,000 from the 2003 Carl Moyer Program funds and the grant of \$500,000 from the 2004 Carl Moyer Program funds, such grant funding to be used for the Port's Truck Repowering Project; and be it

**FURTHER RESOLVED** that the Board hereby adopts the amendments shown on Attachment A to Agenda Report Item No. M-6 dated April 6, 2004 ("Agenda Report") to the Vision 2000 Air Quality Mitigation Program General Program Guidelines for the Truck Program ("Guidelines") which the Board adopted by passage of Port Resolution No. 04016, in order to provide for administration of the Truck Repowering Project, authorizes Port staff to charge the costs to administer the Truck Repowering Project against the overall \$1,480,000 budget for the Truck Program, and authorizes the Executive Director or the Executive Director's designee for and on behalf of the Board to approve reimbursements to truck owners, dealerships, salvage yards,

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katzoff - 3

**FURTHER RESOLVED** that the Board of Port Commissioners hereby waives competitive bidding for the proposed contracts and approves and authorizes the Executive Director to execute for and on behalf of the Board said contracts based on the receipt of informal proposals, upon terms and conditions consistent with the Agenda Report and subject to the overall budget of \$1,480,000 for the Truck Program portion of the Vision 2000 Air Quality Mitigation Program and the Carl Moyer Program grant funds available to the Port; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of contracts in accordance with the terms of this resolution. Unless and until a separate written contract 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 contract.

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katzoff - 3

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04086**

RESOLUTION FINDING AND DETERMINING THAT PROPOSED CONTRACTS FOR TECHNICAL ASSISTANCE, ADMINISTRATION, AND OUTREACH, WITH RESPECT TO IMPLEMENTATION OF THE PORT'S TRUCK REPOWERING PROJECT, CONSTITUTE PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, AND FINDING AND DETERMINING THAT IT IS IN THE BEST INTERESTS OF THE PORT TO ENTER INTO CONTRACTS WITH TRUCK DEALERSHIPS, SALVAGE YARDS, OTHER VENDORS AND SERVICE PROVIDERS AND TRUCK OWNERS WITHOUT COMPETITIVE BIDDING, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF ALL SUCH CONTRACTS.

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**RESOLVED** that based upon the information contained in Board Agenda Report Item No. M-6 dated April 6, 2004 ("Agenda Report"), the Board of Port Commissioners hereby makes the following findings and determinations with respect to the Port's Truck Repowering Project:

1) That the proposed contracts for technical assistance, administration, and outreach for implementation of the Port's Truck Repowering Project will constitute contracts 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 without competitive bidding; and

2) That it is in the best interests of the Port to enter into the proposed contracts with truck dealerships, salvage yards, other vendors and service providers, and truck owners without competitive bidding;

and be it

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**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04087

**RESOLUTION APPROVING AMENDMENTS TO GROUP HEALTH  
PLANS, THE RESTATEMENT OF SECTION 125 PLAN AND  
RELATED ACTIONS.**

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**RESOLVED** that based upon the information contained in Board Agenda Report Item No. 0-1 dated April 6, 2004 (herein "Agenda Report"), the Board of Port Commissioners hereby approves amendments to the Group Health Plans required by the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule, Restatement of Section 125 Plan and related actions as more fully set forth in the Agenda Report.

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katzoff - 3

approval of the definition of "LEA or LIA Business Enterprise"  
described above.

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katzoff - 3



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04088

**RESOLUTION APPROVING CERTAIN AMENDMENTS TO  
NONDISCRIMINATION AND SMALL LOCAL BUSINESS  
UTILIZATION POLICY; NONDISCRIMINATION AND SMALL  
LOCAL BUSINESS UTILIZATION POLICY FOR ALTERNATIVE  
PROJECT DELIVERY APPROACHES; AND RELATED  
REGULATIONS**

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**RESOLVED** that, in accordance with Port staff's proposals as described in Board of Port Commissioners Agenda Report 0-2, dated April 6, 2004, the Board of Port Commissioners ("Board") hereby approves amendment of the definition of "LBA or LIA Business Enterprise", set forth in Article II, of the Nondiscrimination And Small Local Business Utilization Policy ("NDSLBU Policy"), adopted by the Board of Port Commissioners, by Resolution No. 97315, and previously amended by Resolution Nos. 99342, 20115, and 03313, to read as follows:

"**LBA or LIA Business Enterprise (LBABE or LIABE)**" shall mean an economically independent and continuing business performing a commercially useful function, which is located within the Local Business Area or Local Impact Area, respectively, as shown by the items listed in the regulations."

and be it

**FURTHER RESOLVED** that, the Board approves a like amendment of the definition of "LBA or LIA Business Enterprise", set forth in Article II, of the Nondiscrimination and Small Local Business Utilization Policy for Alternative Project Deliver Approaches ("ADPA Policy"), adopted by the Board of Port Commissioners, by Resolution No. 02199; and be it

**FURTHER RESOLVED** that, the Board approves amendment of NDSLBU and ADPA regulations consistent with and to affect the Board's

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**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04089

**RESOLUTION APPROVING THE PORT'S PROPOSED DISADVANTAGED  
BUSINESS ENTERPRISE FY 03-04 FHWA/CALTRANS GOALS &  
METHODOLOGY REPORT FOR PUBLIC COMMENT.**

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**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves the Port of Oakland's proposed Disadvantage Business Enterprise ("DBE") FY 03-04 Overall Annual Goals and Methodology Report for Federal Highway Administration/CalTrans, with a 13.2% DBE goal, for public comment, as set forth in Board Agenda Report Item No. O-3, dated April 6, 2004; and be it

**FURTHER RESOLVED** that the Board hereby approves implementation of said program, subject to review and determination by the Director of Social Responsibility, upon consultation with the Port Attorney, that public comment does not identify significant concerns or issues regarding said report or the proposed implementation of said program.

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katzoff - 3

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Section 15301(b), (c), (d) and (f) (Class 1), which address repair and maintenance of existing facilities with no expansion of use beyond that previously existing.

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katzoff - 3

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04090

RESOLUTION APPROVING PLANS AND SPECIFICATIONS (PROJECT MANUAL) FOR PERFORMING EMERGENCY SPILL RESPONSE AND HANDLING HAZARDOUS AND CONTAMINATED MATERIALS AT PORT OF OAKLAND MARITIME AND AVIATION CONSTRUCTION SITES FOR THE PERIOD COMMENCING JULY 1, 2004 AND ENDING JUNE 30, 2005, 2006 OR 2007; AND CALLING FOR BIDS THEREFOR.

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**RESOLVED** that the plans and specifications and other provisions relative thereto filed with the Board, based on the information contained in Board Agenda Report Item No. O-4, dated April 6, 2004 (herein "Agenda Report"), for **performing emergency spill response and Handling Hazardous and Contaminated Materials at Port of Oakland Maritime and Aviation Construction Sites for the Period Commencing July 1, 2004 and Ending June 30, 2005, 2006 or 2007, Oakland, California**, ("the project"), are hereby approved; and be it

**FURTHER RESOLVED** that the Secretary of the Board is hereby authorized to advertise for four consecutive days in the official newspaper of the City of Oakland for sealed bids for the project not less than ten calendar days prior to May 12, 2004, the date set for receiving said bids; and be it

**FURTHER RESOLVED** that this project will be covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA");

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katzoff - 3

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04091**

**RESOLUTION FINDING AND DETERMINING THAT A PROPOSED SECOND SUPPLEMENTAL AGREEMENT WITH URS CORPORATION FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID SUPPLEMENTAL AGREEMENT.**

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**WHEREAS** by Resolution No. 20504, adopted by the Board of Port Commissioners (the "Board") on December 19, 2000, and as amended by the First Supplemental Agreement dated May 22, 2001, the Board authorized an Agreement with **URS CORPORATION**, for consulting services with respect to As-needed environmental planning consultant services; and

**WHEREAS** it is desirable at this time to further amend said Agreement to authorize the Executive Director of the Port to approve extension of term for an additional three (3) years under said Agreement as set forth in Agenda Sheet Item No. O-5, dated April 6, 2004 (herein the "Agenda Sheet"), without additional compensation for such work; now, therefore, be it

**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the proposed Second Supplemental Agreement with **URS CORPORATION** 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 **URS CORPORATION** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said Second Supplemental Agreement, upon terms and conditions consistent with the Agenda Sheet; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katzoff - 3

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04092**

**RESOLUTION FINDING AND DETERMINING THAT A PROPOSED SECOND SUPPLEMENTAL AGREEMENT WITH AGUATIERRA ASSOCIATES, INC. DOING BUSINESS AS WEISS ASSOCIATES FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID SUPPLEMENTAL AGREEMENT.**

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**WHEREAS** by Resolution No. 20505, adopted by the Board of Port Commissioners (the "Board") on December 19, 2000 and as amended by the First Supplemental Agreement dated December 4, 2001, the Board authorized an Agreement with **AGUATIERRA ASSOCIATES, INC. DOING BUSINESS AS WEISS ASSOCIATES**, for consulting services with respect to As-needed environmental planning consultant services; and

**WHEREAS** it is desirable at this time to further amend said Agreement to authorize the Executive Director of the Port to approve additional extension of term for an additional three (3) years under said Agreement as set forth in Agenda Sheet Item No. O-5, dated April 6, 2004 (herein the "Agenda Sheet"), without additional compensation for such work; now, therefore, be it

**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the proposed Second Supplemental Agreement with **AGUATIERRA ASSOCIATES, INC. DOING BUSINESS AS WEISS ASSOCIATES** 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 **AGUATIERRA ASSOCIATES, INC. DOING BUSINESS AS WEISS ASSOCIATES** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said Second Supplemental Agreement, upon terms and conditions consistent with the Agenda Sheet; and be it



**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katzoff - 3

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04093**

**RESOLUTION FINDING AND DETERMINING THAT A PROPOSED SECOND SUPPLEMENTAL AGREEMENT WITH GAYLE BORCHARD, AN INDIVIDUAL, DOING BUSINESS AS G. BORCHARD & ASSOCIATES FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID SUPPLEMENTAL AGREEMENT.**

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WHEREAS by Resolution No. 20503, adopted by the Board of Port Commissioners (the "Board") on December 19, 2000 and as amended by the First Supplemental Agreement dated December 4, 2001, the Board authorized an Agreement with **GAYLE BORCHARD, an individual, doing business as G. BORCHARD & ASSOCIATES**, for consulting services with respect to As-needed environmental planning consultant services; and

**WHEREAS** it is desirable at this time to further amend said Agreement to authorize the Executive Director of the Port to approve extension of term for an additional three (3) years under said Agreement as set forth in Agenda Sheet Item No. 0-5, dated April 6, 2004 (herein the "Agenda Sheet"), without additional compensation for such work; now, therefore, be it

**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the proposed Second Supplemental Agreement with **GAYLE BORCHARD, an individual, doing business as G. BORCHARD & ASSOCIATES** 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 **GAYLE BORCHARD, an individual, doing business as G. BORCHARD & ASSOCIATES** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said Second Supplemental Agreement, upon terms and conditions consistent with the Agenda Sheet; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katzoff - 3

BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND

RESOLUTION NO. 04094

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH LEHMAN, ENGLISH, KELLY & O'KEEFE, LLC FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.

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**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. O-6, dated April 6, 2004 (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with **LEHMAN, ENGLISH, KELLY & O'KEEFE, LLC** for **State administrative lobbying services** 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 **LEHMAN, ENGLISH, KELLY & O'KEEFE, LLC** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **LEHMAN, ENGLISH, KELLY & O'KEEFE, LLC** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed **\$75,000** for the first year, unless additional work up to an additional amount of **\$15,000** is approved in writing by the Executive Director; subject to a one-year extension with the aforesaid maximum compensation increased by a cost-of-living adjustment, such extension and increase in compensation to be approved by the Executive Director, all in accordance with the provisions of the Agenda Sheet; and be it

**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katzoff - 3

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04095

**RESOLUTION    APPROVING    BUILDING    PERMIT  
REQUESTED BY SOUTHWEST AIRLINES CO.**

**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **SOUTHWEST AIRLINES CO.** ("tenant") for permission to perform certain work at 1 Airport Drive (Building M103), Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$65,000, said work and the conditions of Port approval being the following:

- 1) Removal of interior partition walls;
- 2) Installation of new equipment and finishes;
- 3) Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Class 1(a) of Guidelines Section 15301; and be it

**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At a regular meeting held April 6, 2004

Passed by the following vote:

Ayes: Commissioners Kiang, Kramer, Scates and  
President Protopappas - 4

Noes: None

Absent: Commissioners Ayers-Johnson, Batarse and Katzoff - 3

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04096

**RESOLUTION APPROVING BUILDING PERMIT  
REQUESTED BY BUSINESS JET CENTER-OAKLAND,  
L.P.**

**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **BUSINESS JET CENTER-OAKLAND, L.P.** ("tenant") for permission to perform certain work at 9351 Earhart Road (Building M142), Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$150,000, said work and the conditions of Port approval being the following:

- 1) Installation of new awnings at the street and airside entrances;
- 2) Changes to exterior openings, including details of replacement or repaired doors and windows;
- 3) Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Class 1(a) and 1(d) of Guidelines Section 15301; and be it





**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04097

**RESOLUTION RECOGNIZING FRED WILLIAM RICKERT'S  
MORE THAN EIGHT YEARS OF SERVICE AND HIS  
CONTRIBUTIONS TO THE PORT OF OAKLAND, INCLUDING  
PROVIDING FINANCIAL LEADERSHIP AND ASTUTE  
GUIDANCE AS ITS CHIEF FINANCIAL OFFICER**

---

**WHEREAS**, Chief Financial Officer Fred Rickert is retiring after having worked as an employee of the Port of Oakland for over eight years; and

**WHEREAS**, during his distinguished professional career, Mr. Rickert has engaged in a broad variety of functions, including internal auditing, general accounting, accounts payable, capital and operating budgeting, financial planning and analysis, purchasing, collections, enterprise risk management and insurance, treasury and cash management, capital program financing and debt management; and

**WHEREAS**, in his public career, Mr. Rickert was instrumental in providing strategic financial guidance and support in the areas of financial planning, reporting, funding of capital projects and financial management to the organization; and

**WHEREAS**, Mr. Rickert served as the fiduciary for the Port's assets and financial resources; and

**WHEREAS**, under his leadership, Mr. Rickert ensured that the Port set the highest standards of excellence in customer service by directing the ISO certification of the Financial Services Division, thus making the Port of Oakland the first Port in the country to be so certified; and

**WHEREAS**, Mr. Rickert has demonstrated his zest for life through his enjoyment of a variety of activities including, but not limited, to playing soccer, rowing, playing the banjo, and above all riding the Harley; and

**WHEREAS**, Mr. Rickert has demonstrated his commitment to the community through his support of the annual United Way Giving Campaign and the Toys for Tots Harley ride; and be it

**RESOLVED**, that the Oakland Board of Port Commissioners does hereby express its sincere thanks, its great admiration, and its deep appreciation for all the contributions of FRED WILLIAM RICKERT to the Port, and to the community; and be it

**FURTHER RESOLVED**, that we express our best wishes, Aloha and Mahalo, to Fred and to his lovely wife, Nikki, for good health and continued success in their future endeavors.

At a regular meeting held April 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04098**

**RESOLUTION RECOGNIZING JOHN GLOVER'S MORE THAN 34 YEARS OF SERVICE AND HIS MANY CONTRIBUTIONS TO THE PORT OF OAKLAND, INCLUDING PROVIDING GREAT LEADERSHIP AND CREATIVE SUPPORT AS ITS DIRECTOR, OFFICE OF STRATEGIC & POLICY PLANNING.**

---

**WHEREAS,** Port Director, Office of Strategic & Policy Planning John Glover is retiring after having worked his entire career as an employee of the Port of Oakland for over 34 years; and

**WHEREAS,** during his long and distinguished professional career Mr. Glover has engaged in a broad variety of work, including master planning and detailed project planning and development for aviation, commercial real estate, and maritime developments; and

**WHEREAS,** Mr. Glover was instrumental in initiating monthly high-level meetings between the Port and the City of Oakland in creation of the City/Port Liaison Committee working to coordinate joint cooperative efforts of the City and Port on behalf of all Oaklanders; and

**WHEREAS,** Mr. Glover was a leading participant in the collaborative planning process for the Oakland waterfront with a broad coalition of city leaders and staff, community activists, and waterfront advocates, culminating in the Estuary Policy Plan ultimately incorporated into the Oakland General Plan; and

**WHEREAS,** Mr. Glover served as a vital advocate for future maritime operations playing a key role in working with community and City staff on reuse planning for the Oakland Army Base; and

**WHEREAS,** Mr. Glover broadened his active community participation, serving on the boards of the Regional Airport Planning Committee, the Seaport Planning Advisory Committee, Oakland Sharing the Vision, the New Oakland Committee, the University/Oakland Metropolitan Forum and the Bay Area Partnership as well as a number of other community advisory committees; and

**WHEREAS,** Mr. Glover has over the years been a tireless advocate for the Port, while forging consensus among Port customers, stakeholders and the community at large and finding solutions to issues that people on all sides can support; now, therefore, be it

**RESOLVED,** that the Oakland Board of Port Commissioners congratulates John Glover on his retirement and thanks him for his many significant contributions to the Port of Oakland and the greater Oakland community.

At a regular meeting held April 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None

9/21

4/20/04  
TDC:mj

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04099

RESOLUTION CONCERNING CERTAIN APPOINTMENT.

---

**RESOLVED** that the Executive Director is authorized to hire **JUDITH BLACKWELL** to the position of Chief Financial Officer, at a salary of \$12,500 per month.

At a special meeting held April 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None

BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND

RESOLUTION NO. 04100

RESOLUTION AUTHORIZING AND APPROVING INCREASED  
EXPENDITURE AUTHORITY OF SPECIAL COUNSELS.

RESOLVED that the Board of Port Commissioners hereby authorizes and approves increased expenditure authority of the Law Firms of **WULFSBERG, REESE, COLVIG & FIRSTMAN and PALMER & DODGE**, as Special Counsels, part-time, pursuant to the provisions of Section 6.05 of Port Ordinance No. 867, to render expert assistance to the Port Attorney in connection with **BART Oakland Airport Connector Project**; the compensation of and reimbursement for out-of-pocket expenses incurred by said Special Counsels to be made from time to time as approved by the Port Attorney.

At a regular meeting held April 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04101

RESOLUTION RATIFYING, CONFIRMING AND APPROVING THE FILING OF AN ADMINISTRATIVE CLAIM IN THE BANKRUPTCY OF NATIONAL CAR RENTAL SYSTEM, INC., AND AUTHORIZING EXECUTION OF A TOLLING AGREEMENT WITH GENERAL MOTORS CORPORATION, BOTH CONCERNING 100 AIRPORT DRIVE, AT THE METROPOLITAN OAKLAND INTERNATIONAL AIRPORT ("THE SITE").

---

**RESOLVED** that the Board of Port Commissioners ("Board") hereby ratifies, confirms and approves the filing of an administrative claim in the bankruptcy of National Car Rental System, Inc. on behalf of the Board, concerning the Site; and be it

**FURTHER RESOLVED** that the Board hereby approves and authorizes the execution for and on behalf of the Board a Tolling Agreement with General Motors Corporation, also concerning the Site, tolling the statute of limitations concerning certain environmental claims from February 1, 2004, until February 1, 2007; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At a regular meeting held April 20, 2004


Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None





**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04102

**RESOLUTION AUTHORIZING EXECUTIVE  
DIRECTOR TO EXECUTE A LEASE EXTENSION  
WITH YOSHI'S JAPANESE RESTAURANT, INC.**

---

**WHEREAS**, Oakland Portside Associates, a California limited partner ("OPA") is Landlord under that certain sublease (the "Sublease") between OPA and Yoshi's Japanese Restaurant, Inc. ("Yoshi's"); and

**WHEREAS**, the Port of Oakland is the general partner of OPA; and

**WHEREAS**, OPA and Yoshi's desire to further amend the Sublease to extend the term of the lease for an additional ten years and as other wise provided in that certain letter from the Port of Oakland to Mr. Kaz Kajimura, dated March 11, 2004, and on file with the Secretary of the Board (the "Term Sheet"); now, therefore, be it

**RESOLVED** that on behalf of the Port as general partner of OPA, the Executive Director is hereby authorized to execute an amendment to the Yoshi's Sublease to extend the term for an additional ten years and as otherwise provided in the Term Sheet; and be it

**FURTHER RESOLVED** that the Executive Director is authorized to execute such other documents and enter into such other agreements as shall be necessary to carry out this resolution, provided that all such documents shall be approved by the Port Attorney as to form and legality; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At a regular meeting held April 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None



COMMERCIAL  
REAL ESTATE  
DEPT.

# PORT OF OAKLAND

04 MAR 15 AM 9:46

March 11, 2004

Mr. Kaz Kajimura  
Yoshi's  
510 Embarcadero West  
Oakland, CA 94607

Dear Mr. Kajimura:

Please accept this letter as a summary of the proposed terms and conditions of an amendment to your existing Sublease Agreement with Oakland Portside Associates. The following terms and conditions represent our efforts to capture the major points of the discussions regarding the amendment to your existing Sublease Agreement:

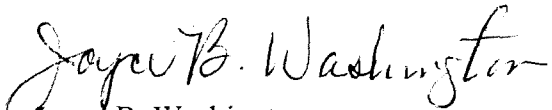
1. One ten-year extension to your existing term.
2. The annual adjustments to your minimum rent will continue in the extended term, based on the percentage change in the Consumer Price Index but will not exceed 5%.
3. The minimum rent starting the first month of the first year of the extended term, would not exceed \$37,000 per month.
4. The Port would amend paragraph 34 of the Sublease, as amended, to allow the establishment and operation of a Yoshi's Restaurant and nightclub business in San Francisco, California. All other locations identified in Paragraph 34, as amended, will still be applicable. The approval of the San Francisco location is subject to your approval and execution of the amendment to your Sublease to extend the term of the agreement for ten additional years.
5. Paragraph 6 (a) of the Sublease, as amended, would be modified. The Port would not enter into an agreement for a restaurant whose menu consists of food items typically offered in a Japanese restaurant, excluding a sushi bar, "food in hand" type, or "Fusion" style restaurants, which may be considered Japanese, in the project area, as defined in the Sublease. The current Port exclusion for a nightclub featuring jazz music in the project area would be deleted from the Agreement.
6. The Port would extinguish the original Continuing Guaranty and the amendments to the Continuing Guaranty.
7. The percentage of gross sales to be paid will be reduced from 10% to 8.5% during the extended term.

Mr. Kaz Kajimura  
March 11, 2004  
Page 2 of 2

The above terms and conditions are an outline of the conditions to be included in an amendment to your Sublease. Upon receiving your concurrence on the above-mentioned terms, we will proceed to the next approval. If the terms outlined above are acceptable, please countersign this letter and return it in the envelope provided.


If you have any questions or concerns, please give me a call at (510) 627-1217.

Sincerely,



Joyce B. Washington  
Manager  
Commercial Real Estate Division

Acceptance:

By  Date 3/11/04  
KAZ KAJIMURA

cc: Omar Benjamin

*Handwritten initials*

04/20/04  
Item No.: A-2  
CHA/arg *ans*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04103**

RESOLUTION RATIFYING AND APPROVING ADDENDA TO SPECIFICATIONS FOR RECONSTRUCTION OF TAXIWAY D AND APRON IMPROVEMENTS ADJACENT TO BUILDING L-812, NORTH FIELD, OAKLAND INTERNATIONAL AIRPORT; A.I.P. 3-06-0170-24, A.I.P. 3-06-0170-29 EXTENDING DATE SET FOR RECEIVING BIDS THEREFOR; AWARDING CONTRACT TO R & L BROSAMER, INC. IN THE AMOUNT OF \$5,069,783, FIXING THE AMOUNT OF BONDS, AND REJECTING ALL OTHER BIDS.



**WHEREAS** on February 17, 2004, the Board approved the plans and specifications for this project and authorized staff to advertise for bids to be received on March 24, 2004; and

**RESOLVED** that the Board hereby ratifies and confirms and approves Addenda Nos. 1, 2, and 3 to the plans and specifications and other provisions relative thereto filed with the Board and described in Agenda Sheet Item No. A-2, dated April 20, 2004 (herein "Agenda Sheet"), for **Reconstruction of Taxiway D and Apron Improvements Adjacent to Building L-812, North Field, Oakland International Airport A.I.P. 3-06-0170-24, A.I.P. 3-06-0170-29, Oakland, California;** and be it

**FURTHER RESOLVED** the Board of Port Commissioners, awards the contract for **Reconstruction of Taxiway D and Apron Improvements Adjacent to Building L-812, North Field, Oakland International Airport A.I.P. 3-06-0170-24, A.I.P. 3-06-0170-29, Oakland, California,** to R & L Brosamer, Inc., a California (herein "Contractor"), as the lowest responsible bidder, in accordance with the terms of the bids received March 29, 2004; and be it

**FURTHER RESOLVED** that a bond for the faithful performance of the work in the amount of \$5,069,783.00, and a bond to guarantee the payment of all claims for labor and materials furnished and for amounts due under the Unemployment Insurance Code, in the amount of \$5,069,783.00 shall be provided by the Contractor(s) as prescribed by applicable laws and regulations and the contract specifications; and be it

**FURTHER RESOLVED** that the procedure prescribed by applicable laws, regulations and the contract specifications shall be taken for the execution of said contract; provided, however, that said contract shall not be binding or enforceable against the Port unless and until it is approved in writing as to form and legality by the Port Attorney; and be it

**FURTHER RESOLVED** that this project will be covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA"), and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and Port CEQA guidelines pursuant to CEQA Guidelines, Section 15301, Class 1 (a, d, and f) and Section 15302, Class 2 (b and c); and be it

**FURTHER RESOLVED** that the other bids received for said contract are hereby rejected and the bid security accompanying said bids shall be returned to the proper persons.

At a regular meeting held April 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04104

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED FIRST SUPPLEMENTAL AGREEMENT WITH CARTER & BURGESS, INC. FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID SUPPLEMENTAL AGREEMENT.

---

**WHEREAS** by Resolution No. 03324, adopted by the Board of Port Commissioners (the "Board") on December 2, 2003, the Board authorized an Agreement with **CARTER & BURGESS, INC.**, for consulting services with respect to engineering services for reconstruction of East Apron - Phase 1, South Field; and

**WHEREAS** it is desirable at this time to further amend said Agreement to authorize the Executive Director of the Port to approve additional work under said Agreement as set forth in Agenda Sheet Item No. A-3, dated April 20, 2004 (herein the "Agenda Sheet"), and additional compensation for such work; now, therefore, be it

**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the proposed First Supplemental Agreement with **CARTER & BURGESS, INC.** 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 **CARTER & BURGESS, INC.** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said First Supplemental Agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **CARTER & BURGESS, INC.** shall be compensated for such services including costs of miscellaneous reimbursable expenses at a maximum compensation that shall not exceed an additional **\$125,000** unless additional work up to an additional amount of **\$50,000** is approved in writing by the Executive Director; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At a regular meeting held April 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None



*WON*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04106**

**RESOLUTION APPROVING BUILDING PERMIT REQUESTED BY  
RMT LANDSCAPE CONTRACTORS, INC.**

**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **RMT LANDSCAPE CONTRACTORS, INC.**, for permission to perform certain work on a 2.09 acre parcel located at Edgewater Drive and Pardee Lane, Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications and said work and estimated cost as described in Agenda Report Item: C-2, dated April 20, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act and the Port CEQA Guidelines pursuant to Section 15332; and be it

**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to any party under any agreement between the Port and such party or with respect to any obligation of such party under any rule or regulation, or (ii) releases such party from any obligation with respect to said work or with respect to any agreement between the Port and the party and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At a regular meeting held April 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None

*AM*

04/20/04  
Item No.: O-2  
CHA/arg *AM*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04107

RESOLUTION FINDING AND DETERMINING THAT IT IS IN THE BEST INTEREST OF THE PORT TO CONTRACT FOR FURNISHING LABOR, MATERIALS, AND EQUIPMENT FOR GENERAL BUILDING CONTRACTOR SERVICES FOR PORT OF OAKLAND FACILITIES FOR THE PERIOD COMMENCING JULY 1, 2004, AND ENDING JUNE 30, 2005, WITHOUT LOWEST-SEALED BID PROCEDURES AND AUTHORIZING EXECUTION OF EXTENSION OF EXISTING CONTRACT WITH BELIVEAU ENGINEERING CONTRACTORS, INC. IN THE AMOUNT OF \$400,000.

---

**RESOLVED** that the Director of Engineering or his designee is authorized to approve the plans and specifications for said projects in advance of construction, pursuant to Government Code Section 830.6; and be it

**FURTHER RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. O-2, dated April 20, 2004 (herein the "Agenda Sheet"), the Board hereby finds and determines that it is in the best interest of the Port to accomplish to accomplish the **Furnishing Maintenance Labor, Materials, and Equipment for General Building Contractor Services for Port of Oakland Facilities for the Period Commencing July 1, 2004 and Ending June 30, 2005, Oakland, California**, without lowest-sealed bid procedures and that said lowest-sealed bid procedures are hereby waived; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the Executive Director to negotiate and execute for and on behalf of the Board an extension to the current contract with

Beliveau Engineering Contractors, Inc., in the amount of \$400,000, for Furnishing Maintenance Labor, Materials, and Equipment for General Building Contractor Services for Port of Oakland Facilities for the Period Commencing September 1, 2001 and Ending June 30, 2002, 2003, or 2004, Oakland, California; and be it

**FURTHER RESOLVED** that this project will not be covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA"); and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that increasing the spending amount of the current contract for the next fiscal year will not result in a direct or indirect physical change in the environment, therefore the project it is not subject to the California Environmental Quality Act, pursuant to CEQA Guidelines, Sections 15378 and 15061(b)(3); however, future specific projects that are identified for construction services will require CEQA review and determination prior to implementation; and be it

**FURTHER RESOLVED** that a bond for the faithful performance of the work in the amount of one hundred percent (100%), and a bond to guarantee the payment of all claims for labor and materials furnished and for amounts due under the Unemployment Insurance Code in the amount of one hundred percent (100%) of the final contract price(s), as negotiated, shall be provided by the Contractor(s) as prescribed by the applicable laws and regulations and the contract specifications; and be it;

**FURTHER RESOLVED** that this resolution is not evidence of and does not create or constitute (a) a contract(s), or the grant of any right, entitled or property interest, or (b) any obligation or liability on the part of the Board or any officer or employee of the Board. 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 as approved as to form and legality by the Port Attorney, and is delivered to the other contracting party, there shall be no valid or effective agreement(s).

At a regular meeting held April 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None

RCM

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04108**

**RESOLUTION FINDING CERTAIN ACCOUNTS RECEIVABLE TO BE  
UNCOLLECTIBLE AND APPROVING THE CHIEF FINANCIAL  
OFFICER TO WRITE OFF SAME FROM THE BOOKS OF THE PORT.**

**WHEREAS**, there are certain accounts receivable on the books of the Port of Oakland which are at present uncollectible for the following reasons: (i) dispute as to amount due, together with the absence of sufficient proof to recover; (ii) financial inability to pay by certain tenants; and (iii) other reasons as set forth in that certain Agenda Report item 0-3 from the Port Attorney, dated April 20, 2004; and

**WHEREAS**, for the foregoing reasons it is the opinion of the Port Attorney that said accounts receivable do not represent accounts receivable which the Port has a present expectation of receiving the revenue represented thereby, and therefore, may be written off the books of the Port of Oakland; now, therefore, be it

**RESOLVED** that upon the recommendation of the Port Attorney and the Chief Financial Officer, the Board of Port Commissioners hereby finds that these accounts receivable are determined to be uncollectible, and approves the Chief Financial Officer to write these accounts off the books of the Port of Oakland as of April 20, 2004; and be it

**FURTHER RESOLVED** that notwithstanding the cancellation of said account, the Port Attorney is hereby authorized by and on behalf of this Board to take such action as may be appropriate, including, but not limited to, placement of the account (s) with a collection agency and/or filing suit to effect the collection thereof.

At a regular meeting held April 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None

*DM*

4/20/04  
S-1  
VON:mj *DM*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04109

**RESOLUTION APPROVING BUILDING PERMIT  
REQUESTED BY FEDERAL EXPRESS CORPORATION.**

**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **FEDERAL EXPRESS CORPORATION** ("tenant") for permission to perform certain work at the ramp at Building M132, 1 Sally Ride Way, Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$730,000, said work and the conditions of Port approval being the following:

- 1) Modifying fuel equipment at three locations;
- 2) Repairing pavement at one location;
- 3) Replacing asphalt with concrete paving at location of aircraft landing gear for one position;
- 4) Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Class 1 of Guidelines Section 15301 and Class 2 of Guidelines Section 15302(c); and be it

**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At a regular meeting held April 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None

4/20/04  
5-2  
VON:mj *WON*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04110

**RESOLUTION    APPROVING    BUILDING    PERMIT  
REQUESTED BY HERTZ RENT A CAR SYSTEMS, INC.**

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**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **HERTZ RENT A CAR SYSTEMS, INC.** ("tenant") for permission to perform certain work located at the 7600 Earhart Road, Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$5,000, said work and the conditions of Port approval being the following:

- 1) Installation of two awnings, each 30 feet long, attached to opposite sides of the existing booth;
- 2) Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Guidelines Section 15301(a) and 15269(c); and be it

**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At a regular meeting held April 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None



*oak*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04111

**RESOLUTION APPROVING BUILDING PERMIT  
REQUESTED BY FOX RENT A CAR, INC.**

**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **FOX RENT A CAR, INC.** ("tenant") for permission to perform certain work located at the 7600 Earhart Road, Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$20,000, said work and the conditions of Port approval being the following:

- 1) Installation of a prefabricated booth (approximately 200 square feet) on a concrete pad near the main shared customer service building;
- 2) Related electrical and mechanical work;
- 3) Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Guidelines Section 15303(e) and 15269(c); and be it

**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At a regular meeting held April 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None

WOW

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04112

**RESOLUTION APPROVING BUILDING PERMIT  
REQUESTED BY FOSTER INTERSTATE MEDIA, INC.**

**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **FOSTER INTERSTATE MEDIA, INC.** ("contractor") for permission to perform certain work at 1100 Airport Drive (Building M110), Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$25,000, said work and the conditions of Port approval being the following:

- 1) Installation of interim signs on the Oakland Maintenance Center hangar building;
- 2) Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Class 11(a) of Guidelines Section 15311; and be it

**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to contractor under any agreement between the Port and contractor or with respect to any obligation of contractor, or (ii) releases contractor from any obligation with respect to said work or with respect to any agreement between the Port and contractor and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At a regular meeting held April 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Katzoff, Kiang,  
Kramer and Vice-President Scates - 5

Noes: None

Absent: None

Recused: Commissioner Batarse and President Protopappas - 2



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04113

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF  
CERTAIN AGREEMENT TO EXTEND RIGHT-OF-ENTRY AND  
INDEMNITY AGREEMENT WITH FOSTER INTERSTATE MEDIA.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Aviation to execute for and on behalf of the Board that certain Agreement to Extend Right-of-Entry and Indemnity Agreement ("Extension Agreement") between the Port and **FOSTER INTERSTATE MEDIA**, ("Foster") to provide for access for installation of advertising displays at the Oakland Metropolitan International Airport, ("MOIA") as more fully described in Agenda Report Item: A-1, dated May 4, 2004; and be it

**FURTHER RESOLVED** that a Notice of Exemption was filed with the County of Alameda pursuant to the California Environmental Quality Act ("CEQA") on December 10, 2003, and under this permit, Foster will obtain a Port building permit prior to installing outdoor displays at specific locations within MOIA, and CEQA review will be conducted prior to installation of its outdoor displays; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At a regular meeting held May 4, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Kiang, Kramer,  
and Vice-President Scates - 4

Noes: None

Absent: Vice-President Katzoff - 1

Recused: Commissioner Batarse and President Protopappas - 2

*ps*

5/4/04  
Item No.: A-2  
RCM/ps  
*ps*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04114

RESOLUTION FINDING AND DETERMINING THAT PROPOSED SUPPLEMENTAL AGREEMENTS WITH SUPERIOR AUTOMATIC SPRINKLER COMPANY, INC. AND SCIENTIFIC CLEANING CONCEPTS, INC., FOR ONGOING MAINTENANCE SERVICES AT THE OAKLAND MAINTENANCE CENTER, METROPOLITAN OAKLAND INTERNATIONAL AIRPORT, FOR ADDITIONAL COMPENSATION CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND RATIFYING AND AUTHORIZING EXECUTION OF SAID SUPPLEMENTAL AGREEMENTS.

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**WHEREAS** on May 20, 2003, the Board of Port Commissioners ("Board") approved Board of Port Commissioners Resolution No. 03130, authorizing the execution of agreements by the Executive Director for on-going maintenance services at the former Oakland Maintenance Center ("OMC") for a period of three months pending disposition of the premises as more fully set forth in Agenda Report Item No. 12, dated May 20, 2003; and

**WHEREAS** contractors retained pursuant said Board authorization have performed additional work to meet the operational needs of the Port as more fully described in Board Agenda Report Item A-2, dated May 4, 2004 (herein the "Agenda Report");

**WHEREAS** it is desirable at this time to ratify and approve amendment of said agreements to authorize the Executive Director of the Port to accept and approve, as indicated in the Agenda Report, additional work under said agreements (herein the "Agenda Sheet"), and additional compensation for such work; now, therefore, be it

**RESOLVED** that the Board of Port Commissioners hereby finds and determines that proposed supplemental agreements with SUPERIOR AUTOMATIC SPRINKLER COMPANY, INC. and SCIENTIFIC CLEANING CONCEPTS, INC., for ongoing maintenance services at the OMC, Metropolitan Oakland

International Airport, for additional compensation will constitute agreements 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, ratify and approve agreements for such services from said contractors without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby ratifies, approves and authorizes the execution for and on behalf of the Board of supplemental agreements with said contractors upon terms and conditions consistent with the Agenda Report and providing that said contractors shall be compensated for such services including costs of miscellaneous reimbursable expenses at a maximum compensation that shall not exceed an additional aggregate amount of \$200,000 as more fully delineated in the Agenda Report; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At a regular meeting held May 4, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Kiang,  
Kramer, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Katzoff - 1



RCM

# AGENDA REPORT

**TITLE:** Approval to Obtain Service Contracts to Provide Ongoing Maintenance at the Oakland Maintenance Center (OMC – the Former United Air Lines, Inc. Hangar), at an Estimated Monthly Cost of \$12,500; Authorize a One-Time Charge of \$3,000 for Inspection, Recharging and Certifying Fire Extinguishers at the OMC; and, Authorize Payment to the Existing Service Contractors for Past Charges Totaling Approximately \$92,000 (1100 Airport Drive, South Airport).

**AMOUNT:** \$107,500 (\$12,500 Per Month in Ongoing Maintenance Costs, \$3,000 in One-Time Charges, and \$92,000 in Past Charges)

**PARTIES INVOLVED:**



Corporate Name	Location
Bay Cities Pyrotector (Bidder)	Emeryville, California
Pride Fire Protection (Bidder)	Dublin, California
Scientific Cleaning Concepts, Inc.	Indianapolis, Indiana
Superior Automatic Sprinkler Company, Inc.	Milpitas, California

**TYPE OF ACTION:** Resolution

**SUBMITTED BY:** Steven Grossman, Director of Aviation 

**COMMITTEE ASSIGNED:** Aviation

**HEARD BY COMMITTEE:** April 26, 2004

**APPROVED BY:**  Tay Yoshitani, Executive Director 

**FACTUAL BACKGROUND**

Board Resolution No. 03130 passed May 20, 2003 approved dispensing with competitive bidding to obtain service contracts to provide ongoing maintenance at the former United Air Lines, Inc. Oakland Maintenance Center (OMC; Building M110) and authorized the Executive Director to execute and terminate various service contracts. This Resolution provided funding for an interim period of three months.

Effective May 31, 2003 United Air Lines, Inc. formally rejected in bankruptcy its lease of the OMC at the South Airport and abandoned the facility. Since June 1, 2003 the Port has been responsible for the day-to-day maintenance of the OMC and has contracted with (i) Ensminger Consulting to provide facilities maintenance and site security, (ii) Scientific Cleaning Concepts, Inc. to provide janitorial services, and (iii) Superior Automatic Sprinkler Company, Inc. to provide mandatory inspection and maintenance of the fire suppression system. The cost of these three contracts averages \$80,000 per month, not including cleaning supplies,

miscellaneous light bulbs, parts and equipment, or any emergency repairs. Through more efficient use of time and materials, these costs reflect a substantial savings over the original \$122,388 per month approved by Board Resolution No. 03130.

**ANALYSIS**

The intent of Board Resolution No. 03130 was to cover maintenance costs for an interim period of three months pending a determination of the long-term disposition of the OMC. The service contractors continue to provide necessary services to the OMC. Ensminger Consulting has entered into a Professional Services Agreement billing at an average of \$67,000 per month. Through Port purchase orders, (i) Superior Automatic Sprinkler Company has been billing routine service at \$9,250 per month plus there are several one-time charges totaling \$14,878 to cover emergency responses and the repair of a failed 10" water line (total owed = approximately \$61,000, including monthly billing dating back to January 2004), and (ii) Scientific Cleaning Concepts, Inc.'s monthly charge of \$3,800 for janitorial services plus supplies (total owed = approximately \$31,000, dating back to October 2003); there is a total of \$92,000 owing for these two service contractors.

It is now anticipated that a decision on the ultimate fate of the OMC will be made within the next several months. However, during that period, day-to-day maintenance of the OMC – including the fire suppression system as mandated by the Fire Marshal for the City of Oakland Fire Department – must continue. In addition, because the Turner Construction Company is using a portion of the OMC for office space, janitorial services have been continuing. New service contracts that may include Local Impact Area/Local Business Area participants with reduced charges for this interim period are being negotiated:

<b>SERVICE CONTRACTORS*</b>	<b>SERVICE PROVIDED</b>	<b>MONTHLY COST</b>
Superior Automatic Sprinkler Company, Inc. (also received a bid for the same amount from Pride Fire Protection)	Weekly fire pump exercise, inspection of sprinkler and deluge system, monitor alarm panel and equipment.	\$7,500
Scientific Cleaning Concepts, Inc.	Janitorial support	3,800
<b>Total Service Contract Amounts</b>		<b>\$11,300</b>
Contingencies & Miscellaneous	11% of Contract Amounts	1,200
<b>Total OMC Service Contractor Costs</b>	<b>Monthly Basis</b>	<b>\$12,500</b>

\*No additional authorization for Ensminger Consulting is required at this time.

In addition, Bay Cities Pyrotector has bid \$3,000 to inspect, recharge and certify the required fire extinguishers located throughout the OMC.

The Port continues to monitor the efficiency and necessity of these services and will reduce or eliminate them on an as-needed basis.

**BUDGET & FINANCIAL IMPACT**

These costs have been included in the Aviation Facilities budget for FY03-04 and FY04-05.

**STAFFING IMPACT**

Provided that outside service contractors continue to provide these services, there will be no change in Port staffing as a result of entering into/continuing these service contracts.

**SUSTAINABILITY**

There are no obvious environmental opportunities involved with this project.

**ENVIRONMENTAL**

This project has been determined to be categorically exempt from the requirements of the California Environmental Quality Act (CEQA) and the Port CEQA guidelines pursuant to CEQA Guidelines Section 15301, Class 1, which exempts maintenance of existing facilities involving no expansion of use beyond that previously existing.

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

The work performed under this contract is not within the scope of the Port of Oakland Maritime and Aviation Project Labor Agreement (MAPLA) and the provisions of the MAPLA do not apply to this work.

**OWNER CONTROLLED INSURANCE PROGRAM (OCIP)**

The work performed under these contracts is not within the scope of the Port of Oakland's Owner Controlled Insurance Program.

**GENERAL PLAN**

Pursuant to Section 727 of the City of Oakland Charter, this project has been determined to conform to the policies for the transportation designation of the Oakland General Plan.

**LIVING WAGE**

Based upon a review of the terms of the agreement and information provided by the contractor, it appears that the living wage requirements set forth in Section 728 of the Charter of the City of Oakland and Port Ordinance Number 3666, as amended, do not apply because the contractor employs fewer than the 21 employees working on Port-related work required for coverage.

**OPTIONS**

1. Approve (i) obtaining service contracts to provide ongoing maintenance at the Oakland Maintenance Center at an estimated monthly cost of \$12,500, plus a one-time fee of \$3,000 to cover servicing the fire extinguishers, and (ii) payment of existing service contractors approximately \$92,000 for past charges.

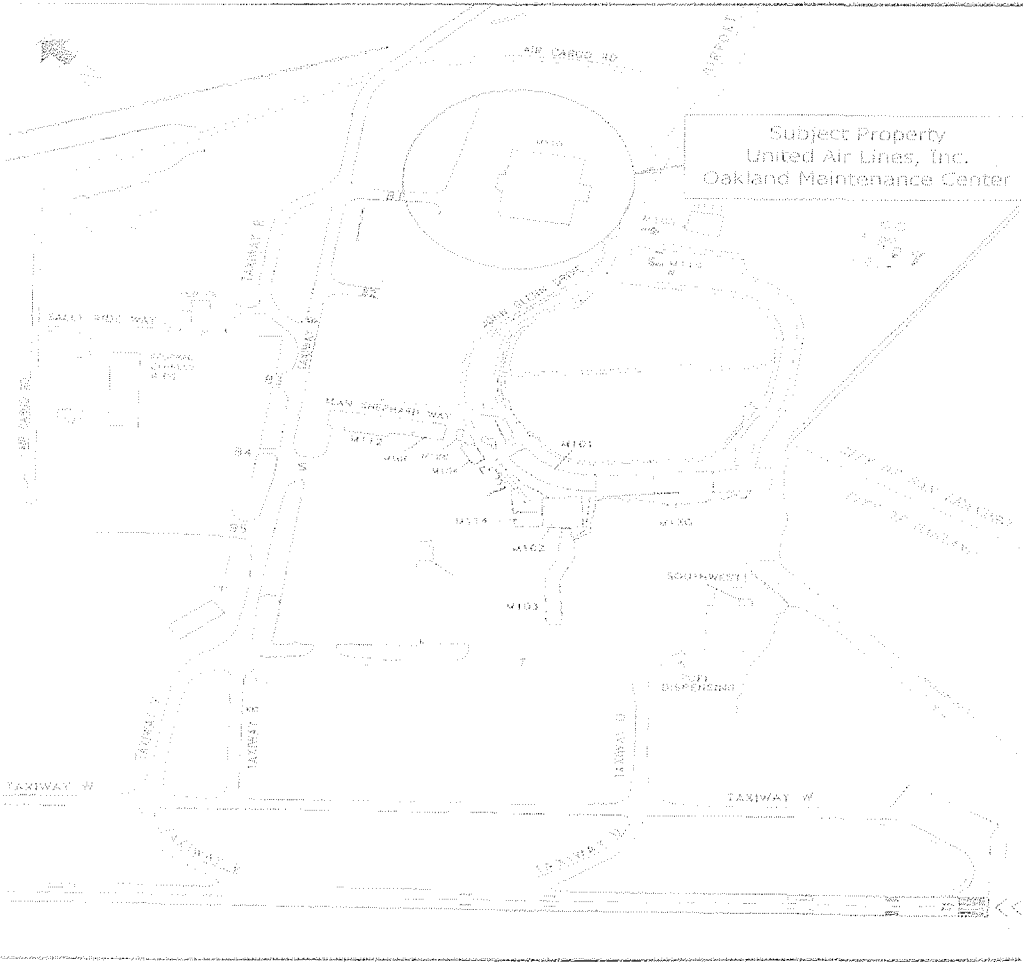
2. Reject obtaining service contracts to provide ongoing maintenance at the Oakland Maintenance Center at an estimated monthly cost of \$12,500, plus a one-time fee of \$3,000 to cover servicing the fire extinguishers, but approve paying existing service contractors approximately \$92,000 for past charges.

**RECOMMENDATION**

It is recommended that the Board pass a resolution (i) approving the obtaining of service contracts to provide ongoing maintenance at the Oakland Maintenance Center at an estimated monthly cost of \$12,500, plus a one-time fee of \$3,000 to cover servicing the fire extinguishers, and (ii) approving the payment of existing service contractors approximately \$92,000 for past charges.

**Board of Port Commissioners  
Calendar Item**

Approval to Obtain Service Contracts to Provide Ongoing Maintenance at the Oakland Maintenance Center (OMC – the Former United Air Lines, Inc. Hangar), at an Estimated Monthly Cost of \$12,500; Authorize a One-Time Charge of \$3,000 for Inspection, Recharging and Certifying Fire Extinguishers at the OMC; and, Authorize Payment to the Existing Service Contractors for Past Charges Totalling Approximately \$92,000 (1100 Airport Drive, South Airport).



*Airport Properties*  
**Port of Oakland**

**Oakland  
International Airport  
South Airport**

Map Not to Scale

*now*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04115**

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION  
OF A FIRST SUPPLEMENTAL AGREEMENT WITH SAN  
FRANCISCO PARKING, INC.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Aviation to execute for and on behalf of the Board a certain First Supplemental Agreement between the Port and **SAN FRANCISCO PARKING, INC.**, to add approximately 22,694 square feet of unimproved land adjacent to the existing premises at the North Airport, Oakland, California, at the rate proposed and as otherwise described in Agenda Report Item A-3, dated May 4, 2004; and be it

**FURTHER RESOLVED** that the Airport Development Program (ADP) has a "Landside Access" component that includes Replacement Rental Car Services Facilities (project B.5). The Board certified an Environmental Impact Report (EIR) and a Supplemental EIR respectively in 1997 and 1999. Replacing the rental car facilities is included in the ADP EIR analysis. A Notice of Determination, which relied on the ADP EIR, was filed with the County of Alameda on November 27, 2001 for interim rental car facilities. The Port determined that pursuant to the California Environmental Quality Act (CEQA) Guidelines Sections 15162 and 15163 no subsequent or supplemental EIR is required with respect to the B.5 project component of the ADP; and be it

**FURTHER RESOLVED** that alternatively, the project is now necessary for airport security to comply with FAA-mandated restrictions that prohibit parking within 300 feet of terminal buildings. CEQA recognizes the need to exempt projects during emergencies in order to protect public safety. The proposed project is exempt pursuant to Public Resources Code, Section 21080 (b)(4) and CEQA Guidelines, Article 18, Statutory Exemptions, Section 15269(c) for emergency projects. The cited sections exempt from CEQA compliance specified discretionary action, that otherwise would be subject to CEQA review. A Notice of Exemption was filed on December 5, 2001 pursuant to CEQA Guidelines Section 15269(c) for emergency projects; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At a regular meeting held May 4, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Kiang,  
Kramer, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Katzoff - 1

*NOV*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04116

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION  
OF A CERTAIN LICENSE AND CONCESSION AGREEMENT  
WITH SWISSPORT CORPORATION.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Aviation to execute for and on behalf of the Board that certain License and Concession Agreement between the Port and **SWISSPORT CORPORATION**, for continued access to the South Airport, Oakland, California, to provide passenger, baggage, ground and cargo handling services, aircraft cabin cleaning, washing, maintenance and repair services and facilities janitorial services, at the rate proposed and as more fully described in Agenda Report Item A-4, dated May 4, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act and the Port CEQA Guidelines pursuant to Guidelines, Article 19, Section 15300.4 and to Class 1 of Guidelines Section 15301(p); and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At a regular meeting held May 4, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Kiang,  
Kramer, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Katzoff - 1



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**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04117**

**RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH FINGER DESIGN ASSOCIATES AT A MAXIMUM COMPENSATION OF \$75,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.**

---

**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. **A-5**, dated **May 4, 2004** (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with **FINGER DESIGN ASSOCIATES** for **master plan graphics consulting services** 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 **FINGER DESIGN ASSOCIATES** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **FINGER DESIGN ASSOCIATES** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed **\$75,000**; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At a regular meeting held May 4, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Kiang,  
Kramer, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Katzoff - 1

*Handwritten initials*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04118**

**RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH ATAC CORPORATION AT A MAXIMUM COMPENSATION OF \$100,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.**

---

**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. **A-6**, dated **May 4, 2004** (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with **ATAC CORPORATION** for **airfield simulation consulting services** 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 **ATAC CORPORATION** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **ATAC CORPORATION** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed **\$100,000**; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At a regular meeting held May 4, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Kiang,  
Kramer, Scates and President Protopappas - 6

Noes: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04119

RESOLUTION APPROVING ISSUANCE OF CHANGE ORDER TO CONTRACT WITH TURNER CONSTRUCTION COMPANY, FOR DESIGN OF THE GARAGE AND CUSTOMER SERVICE BUILDING, OAKLAND TERMINAL EXPANSION PROGRAM, SOUTH FIELD, OAKLAND INTERNATIONAL AIRPORT, OAKLAND, CALIFORNIA.

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**RESOLVED** that pursuant to Port Ordinance 1606, Section 5(i)(3)(iv), the Board directly approves an additive change order to **Turner Construction Company (Lic. No. 210639)**, under the contract for the **Design of Garage and Customer Service Building, Oakland Terminal Expansion Program, South Field, Oakland International Airport, Oakland, California**, in an amount not-to-exceed \$978,000 consistent with Board Agenda Report Item A-7, dated May 4, 2004, (the "Agenda Report"), provided, however, that said change order shall be in a form prepared by the Port Attorney and shall not be effective unless and until it is approved in writing by the Port Attorney; and be it

**FURTHER RESOLVED** that the work required by this change order will be covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA"); and be it

**FURTHER RESOLVED** that the Board hereby approves and ratifies all changes consistent with the Agenda Report; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that the work associated with this project was addressed in the Final Environmental Impact Report (EIR) for the ADP certified and adopted by the Board on December 16, 1997, the recertified 1997 EIR, as supplemented by the 1999 EIR, and the December 16, 2003 recertified ADP EIR, as supplemented by the 2003 supplemental EIR.

The change order approved by this resolution will not result in any new significant or a substantial increase in the severity of environmental impacts previously identified in the ADP EIR; however, future specific changes to the project will be evaluated to determine if additional CEQA review and clearance is needed.

At a regular meeting held May 4, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Kiang,  
Kramer, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Katzoff - 1

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**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04120**

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED FIRST SUPPLEMENTAL AGREEMENT FOR AN ADDITIONAL COMPENSATION OF \$785,000 WITH AIRPORT AND AVIATION PROFESSIONALS (AVAIRPROS) FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID SUPPLEMENTAL AGREEMENT.

---

WHEREAS on December 7, 1999, the Board of Port Commissioners (the "Board") authorized an Agreement with **AIRPORT AND AVIATION PROFESSIONALS (AVAIRPROS)**, for consulting services with respect to airline liaison services; and

WHEREAS it is desirable at this time to further amend said Agreement to authorize the Executive Director of the Port to approve additional work under said Agreement as set forth in Agenda Sheet Item No. A-8, dated May 4, 2004 (herein the "Agenda Sheet"), and additional compensation for such work; now, therefore, be it

RESOLVED that the Board of Port Commissioners hereby finds and determines that the proposed First Supplemental Agreement with **AIRPORT AND AVIATION PROFESSIONALS (AVAIRPROS)** 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 **AIRPORT AND AVIATION PROFESSIONALS (AVAIRPROS)** without competitive bidding; and be it

FURTHER RESOLVED that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said First Supplemental Agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **AIRPORT AND AVIATION PROFESSIONALS (AVAIRPROS)** shall be compensated for such services including costs of miscellaneous reimbursable expenses at a maximum compensation that shall not exceed an additional \$785,000; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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

At a regular meeting held May 4, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Kiang,  
Kramer, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Katzoff - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04121

**RESOLUTION APPROVING AND ACCEPTING BCDC  
REGULATORY PERMITS, INCLUDING BCDC PERMIT  
CONDITIONS, FOR THE TERMINAL 2 EXTENSION PROJECT;  
AND AUTHORIZING THE EXECUTIVE DIRECTOR OR HIS  
DESIGNEE TO IMPLEMENT BCDC PERMIT CONDITIONS.**

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**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves acceptance of regulatory permits from San Francisco Bay Conservation and Development Commission ("BCDC") and authorizes the Executive Director or his Designee to commit to the fulfillment and implementation of all obligations associated with regulatory authorizations issued for the Terminal 2 Extension Project; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines, as set forth in Agenda Sheet Item A-9 dated May 4, 2004, that the Board of Port Commissioners certified an environmental impact report and supplements to the environmental impact report (collectively the "the Final EIR") for the Airport Development Program ("ADP"). The Terminal 2 Extension project ("Gates Project") was evaluated in the Final EIR for the ADP and is within the scope of the ADP approved by the Board of Port Commissioners in December 1997 and June 1999. The Terminal 2 Extension project was re-evaluated and approved by the Board of Port Commissioners under Resolution 02125 on May 7, 2002. A Notice of Determination was filed in June 2002 pursuant to CEQA; and be it

**FURTHER RESOLVED** that the Board hereby further finds and determines, as set forth in Agenda Sheet Item A-9 dated May 4, 2004, that implementation of the BCDC Permit conditions is exempt from California Environmental Quality Act ("CEQA") Guidelines Sections 15301, 15303, 15304, 15309, and 15262; and be it

**FURTHER RESOLVED** that the location and custodian of the documents or other material which constitute the record of proceedings upon which the Board's decision is based respectively are 530 Water Street, Oakland, California, and the Secretary of the Board; and be it

**FURTHER RESOLVED** that 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; and be it

**FURTHER RESOLVED** that this resolution approves and authorizes the acceptance of regulatory permits, including implementation of permit conditions and execution of related agreements with applicable regulatory agencies, in accordance with the terms of this resolution. Unless and until a separate written permit and/or agreement 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 other contracting or permitting party, there shall be no valid or effective agreement or permit.

At a regular meeting held May 4, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Kiang,  
Kramer, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Katzoff - 1



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**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04122**

**RESOLUTION FINDING AND DETERMINING THAT A PROPOSED FIRST SUPPLEMENTAL AGREEMENT WITH TURNER CONSTRUCTION COMPANY CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID SUPPLEMENTAL AGREEMENT.**

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**WHEREAS** by Resolution No. 03112, adopted by the Board of Port Commissioners (the "Board") on May 6, 2003, the Board authorized an Agreement with **TURNER CONSTRUCTION COMPANY (Lic. No. 210639)**, for services as the Prime Builder for the Oakland Terminal Expansion Program, including furnishing engineering services for design and construction of the Garage and Customer Service Building; and

**WHEREAS** it is desirable at this time to amend said Agreement to authorize the Executive Director of the Port to approve additional work under said Agreement as set forth in Agenda Sheet Item No. A-10, dated May 4, 2004 (herein the "Agenda Sheet"), and additional compensation for such work; now, therefore, be it

**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the proposed First Supplemental Agreement with **TURNER CONSTRUCTION COMPANY** 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 **TURNER CONSTRUCTION COMPANY** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said First Supplemental Agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **TURNER CONSTRUCTION COMPANY** shall be compensated for such services including costs of miscellaneous reimbursable expenses at a maximum compensation that shall not exceed an additional **\$1,622,000**; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At a regular meeting held May 4, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Kiang,  
Kramer, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Katzoff - 1

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**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04123

RESOLUTION GRANTING AUTHORIZATION TO INCLUDE DEMOLITION OF THE FRANKLIN DELANO ROOSEVELT PIER, JACK LONDON SQUARE, OAKLAND, CALIFORNIA, IN THE SMALL BUSINESS PROGRAM, FINDING AND DETERMINING THAT IT IS IN THE BEST INTEREST OF THE PORT TO CONTRACT FOR SUCH WORK WITHOUT LOWEST-SEALED BID PROCEDURES; AND AUTHORIZING EXECUTION OF A CONTRACT FOR SUCH WORK BASED ON RECEIPT OF INFORMAL PROPOSALS.

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**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the development and use provided for in the plans and specifications and the subsequent use of the development approved by this resolution are in conformity with the General Plan of the City; and be it

**RESOLVED** that the Director of Engineering or his designee is authorized to approve the plans and specifications for said projects in advance of construction, pursuant to Government Code Section 830.6; and be it

**FURTHER RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. C-1, dated May 4, 2004 (herein the "Agenda Sheet"), the Board of Port Commissioners ("Board") hereby finds and determines that the Port's Small Business Utilization Program encourages small contractors to develop the capacity to perform public works contracts on a competitive basis, thereby increasing the pool of competitive contractors for future Port contracts; and therefore it is in the best interest of the Port to accomplish to accomplish the **Demolition of the Franklin Delano Roosevelt Pier, Jack London Square, Oakland, California**, without lowest-sealed bid procedures and that said lowest-sealed bid procedures are hereby waived; and be it

**FURTHER RESOLVED** that the Board authorizes that the Demolition of the Franklin Delano Roosevelt Pier, Jack London Square, Oakland, California, be included in the Small Business Program; and be it;

**FURTHER RESOLVED** that the Board hereby approves and authorizes the execution for and on behalf of the Board of a contract with a local small contractor, for Demolition of the Franklin Delano Roosevelt Pier, Jack London Square, Oakland, California, based upon the receipt of informal proposals, provided, that if the Executive Director determines that no acceptable proposal has been received from a local small contractor then said contract may be made with any qualified contractor based upon the receipt of informal proposals; and be it

**FURTHER RESOLVED** that the provisions of the Port of Oakland Maritime and Aviation Project Labor Agreement (MAPLA) do not apply to this work, since it is within the Commercial Real Estate area of the Port; and be it

**FURTHER RESOLVED** that a bond for the faithful performance of the work, and a bond to guarantee the payment of all claims for labor and materials furnished and for amounts due under the Unemployment Insurance Code shall be provided by the Contractor as prescribed by the applicable laws and regulations and the contract specifications; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Section 15301(1), demolition and removal of individual small structures, provided the project involves negligible or no expansion of an existing use, Section 15330, minor actions to prevent, minimize, stabilize, mitigate or eliminate the release or threat of release of hazardous waste or hazardous substances; and Port CEQA Guideline Section 15311 (f), Construction of minor shoreline improvements including bulkheads, retaining walls, fishing piers, and public access facilities; and be it

**FURTHER RESOLVED** that pursuant to Port Ordinance 1606, Section 22, the Board finds and determines it to be in the Port's best interest to delegate to the Executive Director, and hereby delegates to the Executive Director, the authority to finally resolve bid protests in connection with this project; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of a grant agreement in accordance with the terms of this resolution. Unless and until a

separate written grant agreement 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 other contracting party, there shall be no valid or effective grant agreement.

At a regular meeting held May 4, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Kiang,  
Kramer, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Katzoff - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

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RESOLUTION NO. 04124

RESOLUTION FINDING AND DETERMINING THAT PROPOSED AGREEMENTS WITH THE NORTHERN CALIFORNIA POWER AGENCY ("NCPA"), THE WESTERN AREA POWER ADMINISTRATION ("WESTERN") AND OTHER ELECTRIC POWER WHOLESALERS TO PURCHASE SUPPLEMENTAL WHOLESALE ELECTRIC POWER FOR THE PORT OF OAKLAND'S HARBOR FACILITIES AND RELATED PROPOSED AGREEMENTS REGARDING THE TRANSMISSION, SCHEDULING, COORDINATION AND POOLING OF SUCH ELECTRIC POWER, CONSTITUTE AGREEMENTS FOR PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE AND/OR THAT IT IS IN THE BEST INTEREST OF THE PORT TO ENTER INTO SUCH CONTRACTS WITHOUT COMPETITIVE BIDDING, WAIVING COMPETITIVE BIDDING AND APPROVING AND AUTHORIZING EXECUTION OF SUCH AGREEMENTS.

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**RESOLVED** that based upon the information contained in Board Agenda Report M-1 dated May 5, 2004 ("Agenda Report"), the Board of Port Commissioners ("Board") hereby finds and determines that the agreements described below constitute agreements for professional, technical and specialized services that are temporary in nature, and/or that it is in the best interest of the Port to enter into such agreements without competitive bidding; and be it

**FURTHER RESOLVED** that the Board hereby approves and authorizes the Executive Director for and on behalf of the Board to enter into agreements with NCPA, Western and other electric power wholesalers without competitive bidding for the purchase of electric power for delivery to the Port's harbor facilities for the period between January 1, 2005 and December 31, 2010, inclusive, at an aggregate dollar amount not to exceed \$5.25 million; and be it

**FURTHER RESOLVED** that the Board hereby approves and authorizes the Executive Director for and on behalf of the Board to enter into agreements with NCPA, Western or other appropriate entities without competitive bidding, for the transmission, scheduling, coordination and pooling of such purchased electric power, and for other related ancillary services, at a cost of approximately \$270,000 per year; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project is categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the State and Port CEQA Guidelines Sections 15061(a)(3) and 15301; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of agreements in accordance with the terms of this resolution. Unless and until separate written agreements are duly executed on behalf of the Board as authorized by this resolution, are signed as approved as to form and legality by the Port Attorney, and are delivered to other contracting party, there shall be no valid or effective agreements.

At a regular meeting held May 4, 2004

At Passed by the following vote:  
meeting held

Passed by the following vote:  
Ayes: Commissioners Ayers-Johnson, Batarse, Kiang,  
Kramer, Scates and President Protopappas - 6

Ayes:  
Noes: None

Noes:  
Absent: Commissioner Katzoff - 1

Absent:

May 4, 2004  
O-1  
PBH/jev

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**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND  
RESOLUTION NO. 04125**

**RESOLUTION APPROVING CONSENT TO ASSIGNMENT  
OF RIGHTS FROM KATZ, KUTTER, ALDERMAN AND  
BRYANT P.A. TO AKERMAN, SENTERFITT & EIDSON  
P.A. FOR CERTAIN EXISTING CONSULTANT  
AGREEMENT.**

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**WHEREAS** on February 3, 2004, the Board of Port Commissioners ("Board") approved a consultant agreement with **KATZ, KUTTER, ALDERMAN AND BRYANT P.A.** for federal legislative consulting services; now, therefore be it

**RESOLVED** that the Board consents and hereby grants the assignment of said above-referenced consultant agreement to **AKERMAN, SENTERFITT & EIDSON P.A.**, provided that such consent is granted upon the express condition that **AKERMAN, SENTERFITT & EIDSON P.A.** shall assume all of the obligations and liabilities of **KATZ, KUTTER, ALDERMAN AND BRYANT P.A.** under said consultant agreement, whether the obligations or liabilities arose before or after the effective date of the assignment and that **KATZ, KUTTER, ALDERMAN AND BRYANT P.A.** is not hereby released from any obligation or liability under said consultant agreement, whether the obligation or liability arose before or after the effective date of the assignment to **AKERMAN, SENTERFITT & EIDSON P.A.**, as more fully set forth in Agenda Item No. O-1, dated May 4, 2004; and be it



**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At a regular meeting held May 4, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Kiang,  
Kramer, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Katzoff - 1

*WON*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04126

**RESOLUTION APPROVING BUILDING PERMIT  
REQUESTED BY AT&T WIRELESS SERVICES, INC.**

**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **AT&T WIRELESS SERVICES, INC.** ("tenant") for permission to perform certain work located at the 1 Airport Drive, Building M103, Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$10,000, said work and the conditions of Port approval being the following:

- 1) Upgrading electrical equipment in the existing equipment room, lower level of M103;
- 2) Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Class 1 of Guidelines Section 15301(a); and be it

**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At a regular meeting held May 4, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Kiang,  
Kramer, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Katzoff - 1

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**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04127

**RESOLUTION APPROVING BUILDING PERMIT  
REQUESTED BY NESTLE WATERS NORTH AMERICA.**

**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **NESTLE WATERS NORTH AMERICA** ("tenant") for permission to perform certain work located at the 295 Hegenberger Road, Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$120,300, said work and the conditions of Port approval being the following:

- 1) Installation of dispensing equipment, containment and upgrade of pavement;
- 2) Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Class 3 of Guidelines Section 15303; and be it

**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At a regular meeting held May 4, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Kiang,  
Kramer, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Katzoff - 1

*[Handwritten signature]*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04128

**RESOLUTION APPROVING BUILDING PERMIT  
REQUESTED BY BUSINESS JET CENTER-OAKLAND,  
L.P.**

**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **BUSINESS JET CENTER-OAKLAND, L.P.** ("tenant") for permission to perform certain work at 9531 Earhart Road (Building L118), Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$200,000, said work and the conditions of Port approval being the following:

- 1) Installation of two new tanks and relocating a third, all above-ground;
- 2) Upgrading pavement;
- 3) Creating a containment area;
- 4) Installation of other related equipment;
- 5) Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Class 11 of Guidelines Section 15311; and be it

**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At a regular meeting held May 4, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Kiang,  
Kramer, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Katzoff - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04129

RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A CONFIDENTIAL SETTLEMENT AGREEMENT AND RELEASE WITH CERTAIN UNDERWRITERS OF LLOYD'S, LONDON AND CERTAIN LONDON MARKET INSURANCE COMPANIES (COLLECTIVELY "LONDON MARKET INSURERS") AND A CLAIM FORM FOR SUBMITTAL TO MARLON INSURANCE COMPANY ("MARLON"), ALL CONCERNING CITY OF OAKLAND V. CERTAIN UNDERWRITERS AT LLOYD'S, LONDON, SAN FRANCISCO SUPERIOR COURT CASE NO. 400315.

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the execution for and on behalf of the Board a Confidential Settlement Agreement and Release with London Market Insurers and a Claim Form for submittal to Marlon, all concerning the above-referenced litigation, and containing such other reasonably related and consistent terms and conditions as may be negotiated by the Executive Director; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At a regular meeting held May 4, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Kiang,  
Kramer, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Katzoff - 1





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**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04130

RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT WITH KAISER VENTURES LLC, KSC RECOVERY, INC. AND WENDEL ROSEN BLACK & DEAN LLP.

RESOLVED that the Board of Port Commissioners ("Board") hereby approves and authorizes the execution for and on behalf of the Board a Confidentiality and Non-Disclosure Agreement, with Kaiser Ventures LLC, KSC Recovery, Inc. and Wendel Rosen Black & Dean LLP, and containing such other reasonably related and consistent terms and conditions as may be negotiated by the Executive Director; and be it

FURTHER RESOLVED that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At a regular meeting held May 18, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04131

RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF A FIRST AMENDMENT TO THE JULY 18, 2001 SURRENDER AND TERMINATION OF LEASE AND PROPERTY RESTORATION AGREEMENT WITH PS TRADING, INC.; APPROVAL OF LICENSE AND CONCESSION AGREEMENT WITH BURNS & McDONNELL ENGINEERING CO., INC.; CERTIFICATION AND ADOPTION OF THE INITIAL STUDY/MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND REPORTING PROGRAM, AND APPROVAL OF A BUILDING PERMIT.

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**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the execution for and on behalf of the Board that certain First Amendment to the July 18, 2001 Surrender And Termination of Lease And Property Restoration Agreement With **PS TRADING, INC.**, as more fully described in Agenda Report Item No. A-1 dated May 18, 2004 ("Agenda Report"); and be it

**FURTHER RESOLVED** that the Board hereby approves and authorizes the execution for and on behalf of the Board a License and Concession Agreement with **BURNS & McDONNELL ENGINEERING CO., INC.** for a one-year term with no rental, as more fully described in the Agenda Report; and be it

**FURTHER RESOLVED** that the Board hereby approves and authorizes the Certification and Adoption of the Initial Study/Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the implementation of the Interim Remedial Action Plan Project at the PST Tank Farm, as more fully described in the Agenda Report; and be it

**FURTHER RESOLVED** that the Board hereby approves the Building Permit for installation and demolition of no more than four monitoring wells, as more fully described in the Agenda Report; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party or parties, there shall be no valid or effective agreement.

At a regular meeting held May 18, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None

*WON*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04132

**RESOLUTION APPROVING THE BUDGET OF THE  
ASSOCIATION FOR THE PRESIDENTIAL YACHT POTOMAC  
FOR FISCAL YEAR 2004/2005.**

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**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves the Fiscal Year 2004/2005 operating budget for **THE ASSOCIATION FOR THE PRESERVATION OF THE PRESIDENTIAL YACHT POTOMAC** (the "Association"), as set forth in Agenda Report Item: C-1, dated May 18, 2004.

At a regular meeting held May 18, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04133

RESOLUTION GRANTING AUTHORIZATION TO INCLUDE DEMOLITION OF BUILDING D-833, MIDDLE HARBOR, OAKLAND, IN THE PORT'S SMALL BUSINESS PROGRAM, FINDING AND DETERMINING THAT IT IS IN THE BEST INTEREST OF THE PORT TO CONTRACT FOR SUCH WORK WITHOUT LOWEST-SEALED BID PROCEDURES; AND AUTHORIZING EXECUTION OF A CONTRACT FOR SUCH WORK BASED ON RECEIPT OF INFORMAL PROPOSALS.

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**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the development and use provided for in the plans and specifications and the subsequent use of the development approved by this resolution are in conformity with the General Plan of the City; and be it

**RESOLVED** that the Director of Engineering or his designee is authorized to approve the plans and specifications for said projects in advance of construction, pursuant to Government Code Section 830.6; and be it

**FURTHER RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. M-1, dated May 18, 2004 (herein the "Agenda Sheet"), the Board of Port Commissioners ("Board") hereby finds and determines that the Port's Small Business Utilization Program encourages small contractors to develop the capacity to perform public works contracts on a competitive basis, thereby increasing the pool of competitive contractors for future Port contracts; and therefore it is in the best interest of the Port to accomplish the **Demolition of Building D-833, Middle Harbor, Oakland, California**, without lowest-sealed bid procedures and that said lowest-sealed bid procedures are hereby waived; and be it

**FURTHER RESOLVED** that the Board authorizes that the **Demolition of Building D-833, Middle Harbor, Oakland, California**, be included in the Small Business Program; and be it;

**FURTHER RESOLVED** that the Board hereby approves and authorizes the execution for and on behalf of the Board of a contract with a local small contractor, for **Demolition of Building D-833, Middle Harbor, Oakland, California**, based upon the receipt of informal proposals, provided, that if the Executive Director determines that no acceptable proposal has been received from a local small contractor then said contract may be made with any qualified contractor based upon the receipt of informal proposals; and be it

**FURTHER RESOLVED** that this project will be covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA"); and be it,

**FURTHER RESOLVED** that a bond for the faithful performance of the work, and a bond to guarantee the payment of all claims for labor and materials furnished and for amounts due under the Unemployment Insurance Code shall be provided by the Contractor as prescribed by the applicable laws and regulations and the contract specifications; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that the work associated with this project was addressed with all feasible mitigation measures in the Final Environmental Impact Report (EIR) for the Berths 55-58 Project certified and adopted by the Board on April 20, 1999. Mitigation measures reducing impacts from demolition and construction activities are included in the Plans and Project Manual for this project; however, future specific changes to the project will be evaluated to determine if additional CEQA review and clearance is needed; and be it

**FURTHER RESOLVED** that pursuant to Port Ordinance 1606, Section 22, the Board finds and determines it to be in the Port's best interest to delegate to the Executive Director, and hereby delegates to the Executive Director, the authority to finally resolve bid protests in connection with this project; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of a grant agreement in accordance with the terms of this resolution. Unless and until a separate written grant agreement 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 other contracting party, there shall be no valid or effective grant agreement.

At a regular meeting held May 18, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None





**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04134

**RESOLUTION TERMINATING CERTAIN APPOINTMENT**

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**RESOLVED** that the appointment of probationary **Employee No. 400438** to the position of Sustainable Wage Program Specialist, be and the same hereby is terminated, effective the close of work day of May 19, 2004.

At a regular meeting held May 18, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None

*RCM*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04135

RESOLUTION FINDING AND DETERMINING THAT IT IS IN THE BEST INTEREST OF THE PORT TO ENTER INTO AN AGREEMENT WITH THE OAKLAND PRIVATE INDUSTRY COUNCIL ("OPIC") TO CO-SPONSOR FUNDING FOR THE EMPLOYMENT BY OPIC OF AN APPRENTICESHIP RECRUITMENT COORDINATOR.

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**RESOLVED** that the Board of Port Commissioners ("Board") does hereby find and determine that it is in the best interest of the Port to enter into an agreement with OPIC to co-sponsor funding for the employment by OPIC of an apprenticeship recruitment coordinator position, with the Port contributing 50% of the salary and benefit costs of the position, as set forth in Agenda Report Item No. 0-6, dated May 18, 2004; and be it

**FURTHER RESOLVED** that this Board does hereby authorize the Executive Director for and on behalf of this Board to execute said agreement for a term of one year, with cost not to exceed \$40,000; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At a regular meeting held May 18, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None

PBH

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04136**

**RESOLUTION CONDITIONALLY AUTHORIZING CERTAIN ACTS  
TO REDEEM THE PORT OF OAKLAND, SPECIAL FACILITIES  
REVENUE BONDS, 1992 SERIES A (MITSUI O.S.K.  
LINES, LTD. PROJECT).**

**WHEREAS**, on June 23, 1992, the Board of Port Commissioners ("Board") facilitated the financing of certain marine terminal improvements on behalf of Mitsui O.S.K. Lines, Ltd. and its assignee Trans Pacific Container Service Corporation (the "Company") by issuing its Special Facilities Revenue Bonds, 1992 Series A (Mitsui O.S.K. Lines, Ltd. Project) (the "Bonds") pursuant to the Trust Indenture, dated as of June 1, 1992 (the "Indenture"), between the Board and U.S. Bank National Association, as successor trustee (the "Trustee"); and

**WHEREAS**, the Company, on behalf of itself and Mitsui O.S.K. Lines, Ltd., has orally requested that the Board redeem all outstanding Bonds on July 1, 2004 at the redemption price applicable on such date and, pursuant to Section 3.01(b)(i) of the Indenture, shall confirm such request in writing upon obtaining the necessary approval of its board of directors on or prior to May 21, 2004;

**WHEREAS**, the Board has determined that it is in the best interest of the Port to redeem the Bonds as requested by the Company, on behalf of itself and Mitsui O.S.K. Lines, Ltd., and as permitted under the Indenture, upon obtaining such written confirmation from the Company:

Now, therefore, be it **RESOLVED** by the Board as follows:

1. Authorization of Certain Officers. The Executive Director, the Deputy Executive Director, the Chief Financial Officer and their designees who are officers, agents or employees of the Board or the Port, for and on behalf of the Board, are hereby authorized and directed to do any and all things necessary to effect the redemption of the Bonds on July 1, 2004 as requested by the Company, on behalf of itself and Mitsui O.S.K. Lines, Ltd., upon the Port's receipt of a written request from the Company, on behalf of itself and Mitsui O.S.K. Lines, Ltd., as described above. Said officers and other persons are further authorized and directed, for and on behalf of the Board, to execute all papers, documents, certificates and other instruments that may be required in order to carry out the authority conferred by this Resolution and by the Indenture, subject in each case to the approval, if necessary, of the Port Attorney, as more fully set forth in Agenda Report 0-4 dated May 18, 2004 ("Agenda Report");

2. Severability. The provisions of this Resolution are hereby declared to be severable and, if any section, phrase or provision shall for any reason be declared to be invalid, such declaration shall not affect the validity of the remainder of the sections, phrases and provisions hereof, as more fully set forth in the Agenda Report;

3. Effective Date. The effective date of this Resolution shall be its date of adoption; and be it

**FURTHER RESOLVED**, that 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.

At a regular meeting held May 18, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04137

RESOLUTION AUTHORIZING THE RENEWAL OF PORT'S INSURANCE PROGRAM INCLUDING, COVERAGE FOR AIRPORT LIABILITY, AIRPORT TERRORISM, CAPA UMBRELLA EXCESS LIABILITY, EXCESS WORKERS' COMPENSATION INCLUDING TERRORISM, PUBLIC OFFICIALS ERRORS & OMISSIONS INCLUDING EMPLOYMENT PRACTICES LIABILITY, EDP INCLUDING COMPUTERS AND BUSINESS INTERRUPTION, FIDUCIARY LIABILITY FOR DEFERRED COMPENSATION PLAN, PORT LIABILITY, FIDELITY/CRIME INSURANCE, PORT BLOCKAGE INCLUDING LOSS OF ACCESS, AUTOMOBILE LIABILITY INCLUDING TERRORISM, AUTOMOBILE PHYSICAL DAMAGE INSURANCE INCLUDING TERRORISM, CRANES INCLUDING EARTHQUAKE, CRANE, BOILER & MACHINERY, CRANE TERRORISM INSURANCE, LOSS OF ACCESS, FIRE-BLANKET, BUILDINGS, CONTENTS, BERTHS, BUSINESS INTERRUPTION BOILER & MACHINERY INCLUDING TERRORISM POLICY.

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**RESOLVED** that the Board of Port Commissioners hereby authorizes the renewal of the Port's Insurance Program including coverage for Airport Liability, Airport Terrorism, CAPA Umbrella Excess Liability, Excess Workers' Compensation Including Terrorism, Public Officials Errors & Omissions including Employment Practices Liability, Port Primary Liability, Port Blockage including Loss of Access, Automobile Liability including Terrorism, Automobile Physical Damage Insurance including Terrorism, Cranes Boiler & Machinery, Crane Terrorism Insurance for the term May 20, 2004 through May 20, 2005, in accordance with Agenda Sheet Item No. O-5, dated May 18, 2004, (herein the "Agenda Sheet"), provided, however, that said insurances shall be approved in writing as to form and legality by the Port Attorney; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and ratifies for and on behalf of the Board the renewal of insurance coverage for the Port of Oakland's EDP including Computers & Business Interruption and Loss of Access for the term June 1, 2004, through June 1, 2005, Fire Insurance including Boiler and Machinery and Terrorism for the term July 1, 2004 to July 1, 2005, and Fiduciary Liability for Deferred Compensation Plan and Fidelity/Crime for the term of June 1, 2004 to June 1, 2005 in accordance with the Agenda Sheet, provided, however, that said insurances shall be approved in writing as to form and legality by the Port Attorney; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby finds and determines that said insurance program is in such amounts and against such risks as are, in the judgment of the Board, prudent and reasonable taking into account, but not being controlled by, the amounts and types of insurance or self-insured programs provided by similar ports.

At a regular meeting held May 18, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None

roc

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04138**

RESOLUTION DETERMINING THAT NEED TO TAKE IMMEDIATE ACTION IS NECESSARY TO PREVENT SERIOUS INJURY TO THE PUBLIC INTEREST IF ACTION WERE DEFERRED AND THAT THE NEED FOR SUCH ACTION CAME TO THE ATTENTION OF THE BOARD SUBSEQUENT TO THE AGENDA BEING POSTED (ACTION ON RECOMMENDED PORT RESOLUTION APPROVING A BUILDING PERMIT APPLICATION FROM SSA TERMINALS, LLC, FOR CONSTRUCTION OF IMPROVEMENTS AT CHARLES P. HOWARD TERMINAL, BERTHS 67 AND 68).

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**RESOLVED**, that the Board of Port Commissioners hereby determines that the need to take immediate action on the Agenda Report recommending that the Board approve the building permit application from SSA Terminals, LLC ("SSAT"), for construction of improvements at Charles P. Howard Terminal, Berths 67 and 68, is necessary to prevent serious injury to the public interest if action were deferred and that the need for such action came to the attention of the Board subsequent to the Agenda being posted for the Board meeting of May 18, 2004.

At a regular meeting held May 18, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None

*Ben*

*[Signature]*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04139

**RESOLUTION APPROVING BUILDING PERMIT  
REQUESTED BY SSA TERMINALS, LLC.**

**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **SSA TERMINALS, LLC**, ("tenant") for permission to perform certain work (the "work") at 1 Market Street, Howard Terminal, Berths 67 and 68, Oakland, California, the Board of Port Commissioners ("Board") hereby approves same subject to said representations and certifications at an estimated cost of \$155,000, said work and the conditions of Port approval being the following:

- 1) Installation of modular buildings, data and telecommunications, video cameras, security fencing, communications antennas;
- 2) Improvements to the electrical power and reefer racks;
- 3) Related electrical and mechanical work;
- 4) Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that the work is covered by the Initial Study and Negative Declaration certified, approved by the Board in Resolution No. 04033; and be it



**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At a regular meeting held May 18, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04140**

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF  
A SETTLEMENT AND RELEASE WITH CH2MHILL INC.; AND  
AUTHORIZING THE PORT ATTORNEY TO EXECUTE A TOLLING  
AGREEMENT AND INITIATE LITIGATION AS NECESSARY TO  
PROTECT THE PORT'S INTERESTS.**

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**RESOLVED** that the Board of Port Commissioners ("Port") hereby approves and authorizes the execution for and on behalf of the Board a settlement and release with CH2MHill, Inc. in exchange for payment of \$250,000, and consistent with the terms and conditions as may be negotiated by the Executive Director; and be it

**FURTHER RESOLVED** that the Board approves and authorizes the Port Attorney to execute a tolling agreement with any culpable parties, and, if necessary to protect the Port's interests, initiate a legal action against any culpable parties; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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 the other contracting parties, there shall be no valid or effective agreement.

At an adjourned regular meeting held June 8, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kramer - 1

BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND

RESOLUTION NO. 04141

RESOLUTION APPROVING APPOINTMENT OF SPECIAL  
COUNSEL.

RESOLVED that the Board of Port Commissioners hereby approves the appointment of **WULFSBERG, REESE, COLVIG & FIRSTMAN**, part-time, pursuant to the provisions of Section 6.05 of Port Ordinance No. 867, to render expert assistance to the Port Attorney in connection with the City of Oakland v. Owner Operator Trucking Association, Alameda Superior Court No. RG04154747; the compensation of and reimbursement for out-of-pocket expenses incurred by said Special Counsel to be made from time to time as approved by the Port Attorney.

At an adjourned regular meeting held June 8, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kramer - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04142

RESOLUTION APPROVING APPOINTMENT OF SPECIAL COUNSEL.

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**RESOLVED** that the Board of Port Commissioners hereby approves the appointment of **FOLEY & LARDNER**, part-time, pursuant to the provisions of Section 6.05 of Port Ordinance No. 867, to render expert assistance to the Port Attorney in connection with wireless communication matters, the compensation of and reimbursement for out-of-pocket expenses incurred by said Special Counsel to be made from time to time as approved by the Port Attorney.

At an adjourned regular meeting held June 8, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kramer - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04143

RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF FIRST SUPPLEMENTAL AGREEMENT TO LEASE WITH SOUTHWEST AIRLINES CO., WAIVING COMPETITIVE BIDDING FOR CONSTRUCTION OF BRAVO SERVICE ROAD, 501 ALAN SHEPARD WAY, METROPOLITAN OAKLAND INTERNATIONAL AIRPORT ("MOIA").

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**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Executive Director to execute for and on behalf of the Board a First Supplemental Agreement to Lease between the Port and **SOUTHWEST AIRLINES CO.**, for reimbursement by the Port for costs associated with construction of Bravo Service Road not to exceed \$1,300,000.00, as more fully described in Agenda Report Item No. A-2, dated June 8, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that the construction services in the proposed First Supplemental Agreement with **SOUTHWEST AIRLINES CO.** 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 construction services from **SOUTHWEST AIRLINES CO.** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act and the Port CEQA Guidelines pursuant to Section 15303; and be it

**FURTHER RESOLVED** that this resolution is not evidence of and does not create or constitute (a) a contract or lease, entitlement or property interest, or (b) any obligation or liability on the part of the Board or any officer or employee of the Board. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At an adjourned regular meeting held June 8, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kramer - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04145**

**RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH MICHAEL R. McCLINTOCK & CO. AT A MAXIMUM COMPENSATION OF \$250,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.**

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**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. **A-3**, dated **June 8, 2004** (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with **MICHAEL R. McCLINTOCK & CO.** to **provide services for the Oakland Airport Community Noise Management Forum** 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 **MICHAEL R. McCLINTOCK & CO.** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **MICHAEL R. McCLINTOCK & CO.** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed **\$250,000 for a 5-year term (not to exceed \$50,000 per annum)**, unless additional work up to an additional amount of \$50,000 is approved in writing by the Executive Director; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At an adjourned regular meeting held June 8, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kramer - 1



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04144**

**RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH MESTRE-GREVE ASSOCIATES AT A MAXIMUM COMPENSATION OF \$250,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.**

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**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. **A-3**, dated **June 8, 2004** (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with **MESTRE-GREVE ASSOCIATES** to **provide services for the Oakland Airport Community Noise Management Forum** 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 **MESTRE-GREVE ASSOCIATES**. without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **MESTRE-GREVE ASSOCIATES** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed **\$250,000 for a 5-year term (not to exceed \$50,000 per annum)**, unless additional work up to an additional amount of \$50,000 is approved in writing by the Executive Director; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At an adjourned regular meeting held June 8, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kramer - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04146**

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED FIRST SUPPLEMENTAL AGREEMENT WITH BROWN-BUNTIN ASSOCIATES, INC. FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID SUPPLEMENTAL AGREEMENT.

WHEREAS by Resolution No. 02278, adopted by the Board of Port Commissioners (the "Board") on September 3, 2002, the Board authorized an Agreement with **BROWN-BUNTIN ASSOCIATES, INC.**, for consulting services with respect to technical acoustical services for sound studies; and

WHEREAS it is desirable at this time to further amend said Agreement to authorize the Executive Director of the Port to approve additional work under said Agreement as set forth in Agenda Sheet Item No. A-4, dated June 8, 2004 (herein the "Agenda Sheet"), and additional compensation for such work; now, therefore, be it

RESOLVED that the Board of Port Commissioners hereby finds and determines that the proposed First Supplemental Agreement with **BROWN-BUNTIN ASSOCIATES, INC.** 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 **BROWN-BUNTIN ASSOCIATES, INC.** without competitive bidding; and be it

FURTHER RESOLVED that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said First Supplemental Agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **BROWN-BUNTIN ASSOCIATES, INC.** shall be compensated for such services including costs of miscellaneous reimbursable expenses at a maximum compensation that shall not exceed an additional \$70,000; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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

At an adjourned regular meeting held June 8, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kramer - 1

6/8/04  
Item No.: A-5  
PBH/ps  
PBH

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04147

**RESOLUTION RATIFYING SUBMITTAL OF A GRANT APPLICATION  
TO FEDERAL AVIATION ADMINISTRATION UNDER THE AIRPORT  
IMPROVEMENT PROGRAM.**

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**RESOLVED** that the Board of Port Commissioners ("Board") hereby finds and determines it is in the best interest of the Port to ratify the submittal of a grant application to the Federal Aviation Administration (new Terminal 2 electrical substation), for approximately \$496,105.00 in entitlement funds, containing the terms and conditions as more fully set forth in Agenda Report Item No. A-5, dated June 8, 2004, and

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Sections 15301, 15303 and 15311.

At an adjourned regular meeting held June 8, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kramer - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04148**

**RESOLUTION FINDING AND DETERMINING THAT IT IS IN THE  
BEST INTEREST OF THE PORT TO ENTER INTO AGREEMENTS  
WITH OAKLAND MUSEUM OF CALIFORNIA AND OAKLAND SCHOOL  
FOR THE ARTS FOR ROTATIONAL EXHIBIT PROGRAMS AT  
METROPOLITAN OAKLAND INTERNATIONAL AIRPORT ("MOIA").**

**RESOLVED** that the Board of Port Commissioners ("Board") does hereby find and determine that it is in the best interest of the Port to enter into agreements with Oakland Museum of California, and Oakland School for the Arts for rotational exhibit programs at MOIA, as more fully set forth in Agenda Report Item No. A-6, dated June 8, 2004; and be it

**FURTHER RESOLVED** that this Board does hereby authorize the Executive Director for and on behalf of this Board to execute said agreement with Oakland Museum of California for a term of one year, with costs not to exceed \$285,127.00, and to execute said agreement with Oakland School for the Arts for a term of one year, with costs not to exceed \$100,000.00, both with a provision for four one-year extensions and optional cost of living increases; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At an adjourned regular meeting held June 8, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kramer - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04149

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED EXTENSION AGREEMENT WITH ABC SECURITY SERVICES FOR SECURITY GUARD SERVICES AT OAKLAND INTERNATIONAL AIRPORT IN THE AMOUNT OF \$2,357,549 CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID AGREEMENT.

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**RESOLVED** that the Board of Port Commissioners ("Board") hereby finds and determines that the proposed Agreement with **ABC SECURITY SERVICES** to extend security guard services at Oakland International Airport 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 **ABC SECURITY SERVICES** without competitive bidding, as set forth in Agenda Sheet Item No. A-8, dated June 8, 2004; and be it

**FURTHER RESOLVED** that the Board hereby approves and authorizes the execution for and on behalf of the Board the agreement with **ABC SECURITY SERVICES** and provided **ABC SECURITY SERVICES** shall be compensated for such services in the approximate amount of \$2,357,549 dollars (including out-of-pocket expenses), for a period of one year, upon terms and conditions consistent with the Agenda Sheet; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an

agreement in accordance with the terms of this resolution. 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.

At an adjourned regular meeting held June 8, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kramer - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04150**

**RESOLUTION RATIFYING AND APPROVING ADDENDA TO SPECIFICATIONS FOR CONSTRUCTION OF ELECTRICAL SUBSTATION, BUILDING M-363, TERMINAL 2, SOUTH FIELD, OAKLAND INTERNATIONAL AIRPORT; A.I.P. 3-06-0170-33; AWARDED CONTRACT TO VITTON CONSTRUCTION CO., INC. (380884) IN THE AMOUNT OF \$1,798,800, AND, FIXING THE AMOUNT OF BONDS.**

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**WHEREAS** on March 2, 2004, the Board approved the plans and specifications for this project and authorized staff to advertise for bids to be received on April 21, 2004; and

**RESOLVED** that the Board hereby ratifies and confirms and approves Addenda Nos. 1 and 2 to the plans and specifications and other provisions relative thereto filed with the Board and described in Agenda Report Item No. A-10, dated June 8, 2004 (herein "Agenda Report"), for **Construction of Electrical Substation, Building M-363, Terminal 2, South Field, Oakland International Airport A.I.P. 3-06-0170-33, Oakland, California;** and be it

**FURTHER RESOLVED** the Board of Port Commissioners, awards the contract for **Construction of Electrical Substation, Building M-363, Terminal 2, South Field, Oakland International Airport A.I.P. 3-06-0170-33, Oakland, California,** to **Vitton Construction Co., Inc. (380884), a California corporation**(herein "Contractor"), as the lowest responsible bidder, in accordance with the terms of the bids received April 21, 2004; and be it

**FURTHER RESOLVED** that a bond for the faithful performance of the work in the amount of \$1,798,800.00, and a bond to guarantee the payment of all claims for labor and materials furnished and for amounts due under the Unemployment Insurance Code, in the amount of \$1,798,800.00 shall be provided by the Contractor(s) as prescribed by applicable laws and regulations and the contract specifications; and be it



**FURTHER RESOLVED** that the procedure prescribed by applicable laws, regulations and the contract specifications shall be taken for the execution of said contract; provided, however, that said contract shall not be binding or enforceable against the Port unless and until it is approved in writing as to form and legality by the Port Attorney; and be it

**FURTHER RESOLVED** that this project will be covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA"), and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that the work Terminal 2 Renovation project and the Explosives Detection System (EDS) associated with this project was addressed in the Final Environmental Impact Report (EIR) for the ADP certified and adopted by the Board on December 16, 1997, the recertified 1997 EIR, as supplemented by the 1999 EIR, and the December 16, 2003 recertified ADP EIR, as supplemented by the 2003 supplemental EIR. The additional work approved by this resolution will not result in any new significant or a substantial increase in the severity of environmental impacts previously identified in the ADP EIR; however, future specific changes to the project will be evaluated to determine if additional CEQA review and clearance is needed. As a separate basis of approval the work associated with this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and Port CEQA guidelines pursuant to CEQA Guidelines, Section 15301, (existing facilities), 15303 (new construction), and Section 15311 (accessory structures), and an additional notice was filed with the County of Alameda on March 12, 2004; and be it

**FURTHER RESOLVED** that the other bids received for said contract are hereby rejected and the bid security accompanying said bids shall be returned to the proper persons.

At an adjourned regular meeting held June 8, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kramer - 1

*Jan*

06/08/04  
Item No.: A-11  
CHA/arg *CHA*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04151**

**RESOLUTION APPROVING PLANS AND SPECIFICATIONS FOR RECONSTRUCTION OF APRON AT HANGARS 7 AND 8, NORTH FIELD, OAKLAND INTERNATIONAL AIRPORT, OAKLAND, CALIFORNIA, A.I.P. 3-06-0170-29, AND CALLING FOR BIDS THEREFOR.**

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**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the development and use provided for in the plans and specifications and the subsequent use of the development approved by this resolution are in conformity with the General Plan of the City; and be it

**FURTHER RESOLVED** that the plans and specifications and other provisions relative thereto filed with the Board, based on the information contained in Board Agenda Report Item No. A-11, dated June 8, 2004 (herein "Agenda Report"), for **Reconstruction of Apron at Hangars 7 and 8, North Field, Oakland International Airport, Oakland, California, A.I.P. 3-06-0170-29**, , ("the project"), are hereby approved; and be it

**FURTHER RESOLVED** that the Secretary of the Board is hereby authorized to advertise for four consecutive days in the official newspaper of the City of Oakland for sealed bids for the project not less than ten calendar days prior to July 7, 2004, the date set for receiving said bids; and be it

**FURTHER RESOLVED** that this project will be covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA"); and be it,

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically except from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA guidelines pursuant to CEQA Guidelines, Section 15301, Class 1 and Section 15302, Class 2.

At an adjourned regular meeting held June 8, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kramer - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04152

**RESOLUTION APPROVING AND AUTHORIZING  
EXECUTION OF AN AGREEMENT WITH SBC TO  
RELOCATE TELEPHONE CABLES AT HANGARS 7 AND  
8, NORTH FIELD, OIA, A.I.P. 3-06-0170-29,  
FOR AN AMOUNT NOT TO EXCEED \$70,000.**

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**RESOLVED** that the Board hereby approves and authorizes the Executive Director for and on behalf of the Board to execute an agreement with **SBC** (formerly Pacific Bell) for the permanent relocation of telephone cables at Hangars 7 and 8, North Field, Oakland International Airport, in an amount not to exceed \$70,000.00, in accordance with Agenda Report Item No. A-12 dated June 8, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically except from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA guidelines pursuant to CEQA Guidelines, Section 15301, Class 1 and Section 15302, Class 2; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At an adjourned regular meeting held June 8, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kramer - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04153**

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED FIRST SUPPLEMENTAL AGREEMENT WITH MWM/YHLA JOINT VENTURE ARCHITECTS FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID SUPPLEMENTAL AGREEMENT.

WHEREAS by Resolution No. 03287, adopted by the Board of Port Commissioners (the "Board") on October 21, 2003, the Board authorized an Agreement with MWM/YHLA JOINT VENTURE ARCHITECTS, for consulting services with respect to design of the in-line explosives detection system in Terminal 2, South Field; and

WHEREAS it is desirable at this time to further amend said Agreement to authorize the Executive Director of the Port to approve additional work under said Agreement as set forth in Agenda Sheet Item No. A-13, dated June 8, 2004 (herein the "Agenda Sheet"), and additional compensation for such work; now, therefore, be it

RESOLVED that the Board of Port Commissioners hereby finds and determines that the proposed First Supplemental Agreement with MWM/YHLA JOINT VENTURE ARCHITECTS 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 MWM/YHLA JOINT VENTURE ARCHITECTS without competitive bidding; and be it

FURTHER RESOLVED that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said First Supplemental Agreement, upon terms and conditions consistent with the Agenda Sheet and providing that MWM/YHLA JOINT VENTURE ARCHITECTS shall be compensated for such services including costs of miscellaneous reimbursable expenses at a maximum compensation that shall not exceed an additional \$145,000 unless additional work up to an additional amount of \$50,000 is approved in writing by the Executive Director; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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

At an adjourned regular meeting held June 8, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kramer - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04154**

**RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH CONSOLIDATED TESTING LABORATORIES AT A MAXIMUM COMPENSATION OF \$576,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.**

**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. **A-14**, dated **June 8, 2004** (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with **CONSOLIDATED TESTING LABORATORIES** to provide materials testing and inspection services for the Terminal 2 Expansion Project 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 **CONSOLIDATED TESTING LABORATORIES** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **CONSOLIDATED TESTING LABORATORIES** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed \$576,000, unless additional work up to an additional amount of \$75,000 is approved in writing by the Executive Director; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At an adjourned regular meeting held June 8, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kramer - 1



*NOW*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04155

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION  
OF A CERTAIN LICENSE AND CONCESSION AGREEMENT  
WITH OAKLAND MARINAS, LP.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Commercial Real Estate to execute for and on behalf of the Board that certain License and Concession Agreement between the Port and **OAKLAND MARINAS, LP**, for approximately 1,000 square feet of office space, located on the second floor of the Harbormaster Building in Jack London Square, Oakland, California, at the rate proposed and as more fully described in Agenda Report Item C-1, dated June 8, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act and the Port CEQA Guidelines pursuant to Guidelines Section 15301(p); and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At an adjourned regular meeting held June 8, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kramer - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04156**

RESOLUTION RATIFYING AND APPROVING ADDENDUM TO SPECIFICATIONS FOR FURNISHING LABOR, MATERIALS AND EQUIPMENT FOR RECONDITIONING, MAINTAINING AND REPAIRING PORT OF OAKLAND RAILROAD TRACKS AND CRANE RAILS FOR THE PERIOD COMMENCING JULY 1, 2004 AND ENDING JUNE 30, 2005, 2006 OR 2007,; AWARDING CONTRACT TO RAILWORKS TRACK SYSTEMS, INC. (705101) IN THE AMOUNT OF \$60,000 PER YEAR, FIXING THE AMOUNT OF BONDS; REJECTING ALL OTHER BIDS AND DIRECTING RETURN OF BID BONDS TO BIDDERS.

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**WHEREAS** on April 6, 2004, the Board approved the plans and specifications for this project and authorized staff to advertise for bids to be received on May 12, 2004; and

**RESOLVED** that the Board hereby ratifies and confirms and approves Addendum No. 1 to the plans and specifications and other provisions relative thereto filed with the Board and described in Agenda Report Item No. M-1, dated June 8, 2004 (herein "Agenda Report"), for **Furnishing Labor, Materials and Equipment for Reconditioning, Maintaining and Repairing Port of Oakland Railroad Tracks and Crane Rails for the Period Commencing July 1, 2004 and Ending June 30, 2005, 2006 or 2007, Oakland, California;** and be it

**FURTHER RESOLVED** the Board of Port Commissioners, awards the contract for **Furnishing Labor, Materials and Equipment for Reconditioning, Maintaining and Repairing Port of Oakland Railroad Tracks and Crane Rails for the Period Commencing July 1, 2004 and Ending June 30, 2005, 2006 or 2007, Oakland, California, to Railworks Track Systems, Inc. (705101), a Nevada corporation** (herein "Contractor"), as the lowest responsible bidder, in accordance with the terms of the bids received May 12, 2004; and be it

**FURTHER RESOLVED** that a bond for the faithful performance of the work in the amount of \$60,000.00, and a bond to guarantee the payment of all claims for labor and materials furnished and for amounts due under the Unemployment Insurance Code, in the amount of \$60,000.00 shall be provided by the Contractor(s) as prescribed by applicable laws and regulations and the contract specifications; and be it

**FURTHER RESOLVED** that the procedure prescribed by applicable laws, regulations and the contract specifications shall be taken for the execution of said contract; provided, however, that said contract shall not be binding or enforceable against the Port unless and until it is approved in writing as to form and legality by the Port Attorney; and be it

**FURTHER RESOLVED** that this project is not for "major maintenance" within the meaning of the Port of Oakland Maritime and Aviation Project Labor Agreement and will not be covered by the provisions of the MAPLA, and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Section 15301(b), (c), (d) and (f), Class 1), which address repair and maintenance of existing facilities with on expansion of use beyond that previously existing; and be it

**FURTHER RESOLVED** that the other bids received for said contract are hereby rejected and the bid security accompanying said bids shall be returned to the proper persons.

At an adjourned regular meeting held June 8, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kramer - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04157

RESOLUTION RATIFYING AND APPROVING ADDENDA TO SPECIFICATIONS FOR CONSTRUCTION OF BERTHS 32/33 WHARF REHABILITATION, OUTER HARBOR; AWARDED CONTRACT TO MANSON/DUTRA, A JOINT VENTURE, INC., FIXING THE AMOUNT OF BONDS, REJECTING ALL OTHER BIDS AND DIRECTING RETURN OF BID BONDS TO BIDDERS; AND AUTHORIZING ACCEPTANCE OF REGULATORY PERMITS, INCLUDING WASTE DISCHARGE REQUIREMENTS AND WATER QUALITY CERTIFICATION.

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**WHEREAS** on March 2, 2004, the Board approved the plans and specifications for this project and authorized staff to advertise for bids to be received on April 21, 2004; now therefore, be it

**RESOLVED** that the Board hereby ratifies and confirms and approves Addenda Nos. 1, 2, 3, 4 and 5 to the plans and specifications and other provisions relative thereto filed with the Board and described in Agenda Report Item No. M-2, dated June 8, 2004 (herein "Agenda Report"), for **Construction of Berths 32/33 Wharf Rehabilitation, Outer Harbor, Oakland, California**; and be it

**FURTHER RESOLVED** the Board of Port Commissioners, awards the contract for **Construction of Berths 32/33 Wharf Rehabilitation, Outer Harbor, Oakland, California** to **Manson/Dutra a joint venture**(herein "Contractor"), as the lowest responsible bidder, in accordance with the terms of the bids received May 12, 2004; and be it

**FURTHER RESOLVED** that a bond for the faithful performance of the work in the amount of \$17,942,169.00, and a bond to guarantee the payment of all claims for labor and materials furnished and for amounts due under the Unemployment

Insurance Code, in the amount of \$17,942,169.00 shall be provided by the Contractor(s) as prescribed by applicable laws and regulations and the contract specifications; and be it

**FURTHER RESOLVED** that the procedure prescribed by applicable laws, regulations and the contract specifications shall be taken for the execution of said contract; provided, however, that said contract shall not be binding or enforceable against the Port unless and until it is approved in writing as to form and legality by the Port Attorney; and be it

**FURTHER RESOLVED** that this project will be covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA"), and be it

**FURTHER RESOLVED** that the other bids received for said contract are hereby rejected and the bid security accompanying said bids shall be returned to the proper persons; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Executive Director or his designee to accept and execute regulatory permits issued by the U.S. Army Corps of Engineers ("Corps") and the San Francisco Bay Conservation and Development Commission ("BCDC"), and to accept the terms of the waste discharge requirements and water quality certification issued by the San Francisco Regional Water Quality Control Board ("Water Board Authorization"), associated with the construction of improvements to Berths 32/33, Oakland, California, all in accordance with Agenda Report Item M-2, dated June 8, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that the work associated with the Berths 32/33 Wharf Rehabilitation was addressed in the Initial Study/Negative Declaration certified by the Board on January 21, 2003, by Resolution 03010. Two elements of the project, the installation of sheet pile wall to accommodate future dredge depths and the berth deepening, were covered by the "Oakland Harbor Navigation Improvement (-50') Project Final Environmental Impact Statement/Environmental Impact Report, certified by the Board on February 1, 2000, by Resolution 20049. The additional work approved by this resolution will not result in any new significant or substantial increase in the severity of environmental impacts previously identified, however, future specific changes will be

evaluated to determine if additional CEQA review and clearance is needed; and be it

**FURTHER RESOLVED** that 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 the Port Attorney approves the Corps Permits and Water Board Authorization as to form and legality and then only to the extent provided for in the provisions of the Corps Permits and the Water Board Authorization which are consistent with applicable legal authorization for the issuance of the Corps Permits and the Water Board Authorization.

At the regular meeting held on June 8, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kramer - 1

BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND

RESOLUTION NO. 04158

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED FIRST SUPPLEMENTAL AGREEMENT WITH LIFTECH CONSULTANTS, INC. FOR CONSULTING SERVICES AT A MAXIMUM COMPENSATION OF \$150,000, CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID SUPPLEMENTAL AGREEMENT.

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WHEREAS by Resolution No. 01427, adopted by the Board of Port Commissioners (the "Board") on November 6, 2001, the Board authorized an Agreement with **LIFTECH CONSULTANTS, INC.**, for consulting services with respect to design of Berths 32/33 Wharf Rehabilitation, Outer Harbor; and

WHEREAS it is desirable at this time to further amend said Agreement to authorize the Executive Director of the Port to approve additional work under said Agreement as set forth in Agenda Sheet Item No. M-3, dated June 8, 2004 (herein the "Agenda Sheet"), and additional compensation for such work; now, therefore, be it

RESOLVED that the Board of Port Commissioners hereby finds and determines that the proposed First Supplemental Agreement with **LIFTECH CONSULTANTS, INC.** 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 **LIFTECH CONSULTANTS, INC.** without competitive bidding; and be it

FURTHER RESOLVED that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said First Supplemental Agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **LIFTECH CONSULTANTS, INC.** shall be compensated for such services including costs of miscellaneous reimbursable expenses at a maximum compensation that shall not exceed an additional \$150,000; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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

At an adjourned regular meeting held June 8, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kramer - 1



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04159**

**RESOLUTION FINDING AND DETERMINING THAT IT IS IN THE BEST INTEREST OF THE PORT TO CONTRACT FOR THE RELOCATION OF SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT ("BART") TRANSBAY TUBE ANODE SYSTEMS FOR THE OAKLAND HARBOR NAVIGATION IMPROVEMENT (-50 FOOT) PROJECT ("DREDGING PROJECT") WITHOUT COMPETITIVE BIDDING AND APPROVING AND AUTHORIZING EXECUTION OF CONTRACTS FOR SUCH RELOCATION BASED ON RECEIPT OF INFORMAL PROPOSALS, AND APPROVING AND AUTHORIZING THE EXECUTION OF AN OAKLAND OUTER HARBOR AGREEMENT WITH BART PROVIDING FOR SUCH RELOCATION AND FOR REMOVAL OF ROCK AND SOIL ABOVE THE TRANSBAY TUBE AS A PART OF THE DREDGING PROJECT.**

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**RESOLVED** that based upon the information contained in Board Agenda Report M-4 dated June 8, 2004 ("Agenda Report"), the Board of Port Commissioners ("Board") hereby finds and determines that it is in the best interest of the Port to accomplish the relocation of BART's anode systems in the Oakland Outer Harbor that protect BART's Transbay Tube, which relocation is required to implement the Dredging Project, without competitive bidding; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that (1) the relocation of said BART anode systems and the removal of rock and soil above BART's Transbay Tube, as described in the Agenda Report and which are provided for in the Oakland Outer Harbor Agreement between the Port and BART which the Board approves by this resolution, are part of the Dredging Project covered by the Oakland Harbor Navigation Improvement (50-Foot) Project Environmental Impact Report/Environmental Impact Statement which the Board certified on February 1, 2000, by Port Resolution No. 20049, (2) the alteration of the existing BART access over Port land in the Oakland Outer Harbor marine terminal area to BART's two line vent structures serving the Transbay Tube and the other modifications and grants by the Port to BART of other real estate rights related to BART's operation of BART's rapid transit facilities in the Oakland Outer Harbor area, which alteration and other modifications and grants of such real estate rights are provided for in the proposed Grant of Easement Agreement between the Port and BART that BART will execute and deliver to the Port as part of execution of the Oakland Outer Harbor Agreement, are

categorically exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Section 15301(p) of the State and Port CEQA Guidelines which exempts renewals, extensions or amendments to leases or license and concession agreements where the premises or licensed activity was previously leased or licensed to the same or another person and involving negligible or no expansion of use beyond that previously existing, and (3) it can be seen with certainty that there is no possibility that there may be a significant effect on the environment as the result of the cooperation between BART and the Port as provided for in the Oakland Outer Harbor Agreement on activities in the Port's Berths 25-34 marine terminal areas, and such cooperation is not a project as defined by Section 15378 of the State and Port CEQA Guidelines and therefore is not subject to CEQA according to Section 15061(b)(3) ("the general rule") which states that CEQA applies only to projects, provided, however, individual projects in the Berths 25-34 area undertaken by the Port or BART must be evaluated by the respective agencies for CEQA compliance; and be it

**FURTHER RESOLVED** that the Board hereby approves and authorizes the execution for and on behalf of the Board of a contract or contracts for relocation of said anode systems without formal competitive bidding and based upon the receipt of informal proposal(s) and in accordance with the provisions of the Oakland Outer Harbor Agreement which the Board approves below, subject, however, to (1) the Port's and BART's execution of the Oakland Outer Harbor Agreement, (2) compliance with the provisions of the Oakland Outer Harbor Agreement relating to contracting for such relocation and (3) the effectiveness of a Port ordinance authorizing execution of a Grant of Easement Agreement between the Port and BART which the Oakland Outer Harbor Agreement provides for BART to execute and deliver to the Port upon the Port and BART entering into the Oakland Outer Harbor Agreement and the Port's execution and recordation of said Grant of Easement Agreement in accordance with said ordinance, pursuant to which the Port will grant to BART certain easements for said relocated anode systems, upon which execution and recordation BART will become obligated under the Oakland Outer Harbor Agreement to cooperate with the Port in relocating said anode systems and to share the costs of such relocation as provided in the Oakland Outer Harbor Agreement; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of an Oakland Outer Harbor Agreement with BART which provides for the relocation of BART's anode systems in the Oakland Outer Harbor which protect BART's Transbay Tube (subject to the Port's execution and recordation of the Grant of Easement Agreement described above), which provides for the removal of rock and soil above the Transbay Tube as a part of the Dredging Project, and which is otherwise consistent with the provisions of the Oakland Outer Harbor Agreement as described in the Agenda Report;

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of contracts and an agreement in accordance with the terms of this resolution. Unless and until a separate written contract or 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 the other contracting party, there shall be no valid or effect contract or agreement.

At an adjourned regular meeting held June 8, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kramer - 1

*DLH*

06/08/04  
Item No.: O-1  
CHA/arg *PLH*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04160**

**RESOLUTION FINDING AND DETERMINING THAT IT IS IN THE BEST INTEREST OF THE PORT TO CONTRACT FOR FURNISHING LABOR, MATERIALS AND EQUIPMENT FOR PAVING, GRADING AND ASSOCIATED CONTRACTOR'S SERVICES FOR PORT OF OAKLAND FACILITIES FOR THE PERIOD COMMENCING JULY 1, 2004, AND ENDING JUNE 30, 2005, 2006 OR 2007, WITHOUT LOWEST-SEALED BID PROCEDURES AND AUTHORIZING EXECUTION OF CONTRACTS FOR SUCH WORK BASED ON RECEIPT OF INFORMAL PROPOSALS.**

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**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the development and use provided for in the plans and specifications approved by this resolution are in conformity with the General Plan of the City; and be it

**FURTHER RESOLVED** that the Director of Engineering or his designee is authorized to approve the plans and specifications for said projects in advance of construction, pursuant to Government Code Section 830.6; and be it

**FURTHER RESOLVED** that based upon the information contained in Board Agenda Report Item No. O-1, dated June 8, 2004 (herein the "Agenda Report"), the Board hereby finds and determines that it is in the best interest of the Port to accomplish the **Furnishing Labor, Materials and Equipment for Paving, Grading and Associated Contractor's Services for Port of Oakland Facilities for the Period Commencing July 1, 2004, and Ending June 30, 2005, 2006 or 2007, Oakland, California** without lowest-sealed bid procedures and that said lowest-sealed bid procedures are hereby waived; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of four contracts for **Furnishing Labor, Materials and Equipment for Paving,**

Grading and Associated Contractor's Services for Port of Oakland Facilities for the Period Commencing July 1, 2004, and Ending June 30, 2005, 2006 or 2007, Oakland, California, one with a local small contractor, based upon the receipt of informal proposals, provided that if the Executive Director determines that no acceptable proposal has been received from a contractor in the Local Impact Area then all four contracts may be made with any qualified contractor based upon the receipt of informal proposals; and be it

**FURTHER RESOLVED** that this project will be covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA"), however, if one of the contracts is awarded to a local small contractor, that contract will be exempt from the provisions of the MAPLA if awarded to a local small contractor that is eligible for exemption under the program established by MAPLA's Appendix "G"-Letter of Understanding re: Small Business Utilization Program; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that dispensing with standard bidding procedures for this project will not result in any physical change in the environment, therefore it is exempt from the California Environmental Quality Act (CEQA). When specific activities that will be performed using those services are identified, staff will determine at that time whether additional CEQA review and clearance is needed; and be it;

**FURTHER RESOLVED** that, pursuant to Port Ordinance 1606, Section 22, the Board finds and determines it to be in the Port's best interest to delegate to the Executive Director, and hereby delegates to the Executive Director, the authority to finally resolve bid protests in connection with this project; and be it

**FURTHER RESOLVED** that this resolution is not evidence of and does not create or constitute (a) a contract(s), 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. 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 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(s).

At an adjourned regular meeting held June 8, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kramer - 1

BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND

RESOLUTION NO. 04161

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED FIRST SUPPLEMENTAL AGREEMENT WITH GUTIERREZ/ASSOCIATES FOR CONSULTING SERVICES AT A MAXIMUM COMPENSATION OF \$500,000, CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID SUPPLEMENTAL AGREEMENT.

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WHEREAS by Resolution No. 02359, adopted by the Board of Port Commissioners (the "Board") on October 22, 2002, the Board authorized an Agreement with **GUTIERREZ/ASSOCIATES**, for consulting services with respect to on-call architectural and engineering services; and

WHEREAS it is desirable at this time to further amend said Agreement to authorize the Executive Director of the Port to approve additional work under said Agreement as set forth in Agenda Sheet Item No. O-2, dated June 8, 2004 (herein the "Agenda Sheet"), and additional compensation for such work; now, therefore, be it

RESOLVED that the Board of Port Commissioners hereby finds and determines that the proposed First Supplemental Agreement with **GUTIERREZ/ASSOCIATES** 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 **GUTIERREZ/ASSOCIATES** without competitive bidding; and be it

FURTHER RESOLVED that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said First Supplemental Agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **GUTIERREZ/ASSOCIATES** shall be compensated for such services including costs of miscellaneous reimbursable expenses at a maximum compensation that shall not exceed an additional \$500,000; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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

At an adjourned regular meeting held June 8, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kramer - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04162**

**RESOLUTION FINDING AND DETERMINING THAT A PROPOSED FIRST SUPPLEMENTAL AGREEMENT WITH C. J. TYLER ARCHITECTURE FOR CONSULTING SERVICES AT A MAXIMUM COMPENSATION OF \$500,000, CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID SUPPLEMENTAL AGREEMENT.**

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**WHEREAS** by Resolution No. 02360, adopted by the Board of Port Commissioners (the "Board") on October 22, 2002, the Board authorized an Agreement with **C. J. TYLER ARCHITECTURE**, for consulting services with respect to on-call architectural and engineering services; and

**WHEREAS** it is desirable at this time to further amend said Agreement to authorize the Executive Director of the Port to approve additional work under said Agreement as set forth in Agenda Sheet Item No. O-2, dated June 8, 2004 (herein the "Agenda Sheet"), and additional compensation for such work; now, therefore, be it

**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the proposed First Supplemental Agreement with **C. J. TYLER ARCHITECTURE** 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 **C. J. TYLER ARCHITECTURE** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said First Supplemental Agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **C. J. TYLER ARCHITECTURE** shall be compensated for such services including costs of miscellaneous reimbursable expenses at a maximum compensation that shall not exceed an additional \$500,000; and be it



**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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

At an adjourned regular meeting held June 8, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kramer - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04163**

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED FIRST SUPPLEMENTAL AGREEMENT WITH RPR ARCHITECTS FOR CONSULTING SERVICES AT A MAXIMUM COMPENSATION OF \$500,000, CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID SUPPLEMENTAL AGREEMENT.

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**WHEREAS** by Resolution No. 02358, adopted by the Board of Port Commissioners (the "Board") on October 22, 2002, the Board authorized an Agreement with **RPR ARCHITECTS**, for consulting services with respect to on-call architectural and engineering services; and

**WHEREAS** it is desirable at this time to further amend said Agreement to authorize the Executive Director of the Port to approve additional work under said Agreement as set forth in Agenda Sheet Item No. O-2, dated June 8, 2004 (herein the "Agenda Sheet"), and additional compensation for such work; now, therefore, be it

**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the proposed First Supplemental Agreement with **RPR ARCHITECTS** 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 **RPR ARCHITECTS** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said First Supplemental Agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **RPR ARCHITECTS** shall be compensated for such services including costs of miscellaneous reimbursable expenses at a maximum compensation that shall not exceed an additional \$500,000; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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

At an adjourned regular meeting held June 8, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kramer - 1

*Ben*

6/4/04  
O-4  
MCP:mj



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04164

**RESOLUTION RATIFYING AND APPROVING CONTRACTS WITH METLIFE  
INSURANCE COMPANY FOR EMPLOYEE GROUP LIFE INSURANCE AND  
LONG-TERM DISABILITY INSURANCE.**

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**RESOLVED** that based upon the information contained in Board Agenda Report Item: 0-4 dated June 8, 2004 (herein "Agenda Report"), the Board of Port Commissioners hereby ratifies and approves contracts with **METLIFE INSURANCE COMPANY** for employee group life insurance and long-term disability insurance and related actions as more fully set forth in the Agenda Report.

At an adjourned regular meeting held June 8, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kramer - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04165

**RESOLUTION AUTHORIZING PORT OF OAKLAND EMPLOYEES TO  
PURCHASE ADDITIONAL SERVICE CREDIT IN THE CALIFORNIA  
PUBLIC EMPLOYEES' RETIREMENT SYSTEM ("CalPERS")  
THROUGH PRE-TAX PAYROLL DEDUCTION (CONTRIBUTION CODE  
14)**

**WHEREAS**, the Board of Administration of CalPERS at the April 1996 meeting approved a pre-tax payroll deduction plan for service credit purchases under Internal Revenue Code (IRC) section 414(h)(2); and

**WHEREAS**, the Port of Oakland has the authority to implement the provisions of IRC section 414(h)(2) and has determined that even though implementation is not required by law, the tax benefit offered by this section should be provided to those employees who are members of CalPERS; and

**WHEREAS**, the Port of Oakland elects to participate in the pre-tax payroll deduction plan for all employees in the following CalPERS coverage group(s):

Employees of the Port of Oakland

Now, therefore be it **RESOLVED**:

1. That the Port of Oakland will implement the provisions of IRC section 414(h)(2) by making employee contributions for service credit purchases pursuant to the California State Government Code on behalf of its employees who are members of CalPERS and who have made a binding irrevocable election to participate in the pre-tax payroll deduction plan, containing the terms and conditions as more fully set forth in Agenda Report Item No. 0-5, dated June 8, 2004. "Employee contributions" shall mean those contributions reported to CalPERS which are deducted from the salary of employees and are credited to individual employee accounts for service credit purchases, thereby resulting in tax deferral of employee contributions.

2. That the contributions made by the Port of Oakland to CalPERS, although designated as employee contributions, are being paid

by the Port of Oakland in lieu of contributions by the employees who are members of CalPERS.

3. That the employees shall not have the option of choosing to receive the contributed amounts directly instead of having them paid by the Port of Oakland to CalPERS.

4. That the Port of Oakland shall pay to CalPERS the contributions designated as employee contributions from the same source of funds as used in paying salary, thereby resulting in tax deferral of employee contributions.

5. That the effective date for commencement of the pre-tax payroll deduction plan cannot be any earlier than July 1, 1996, or the date the completed resolution is received and approved in CalPERS, whichever is later.

6. That the governing body of the Port of Oakland shall participate in and adhere to requirements and restrictions of the pre-tax payroll deduction plan by reporting pre-tax payroll deductions when authorized by CalPERS for those employees of the above stated Coverage Group(s) who have elected to participate in this plan.

At an adjourned regular meeting held June 8, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kramer - 1

*RCM*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04166

RESOLUTION AUTHORIZING THE PURCHASE OF MOTOR VEHICLES, AND FINDING AND DETERMINING THAT CERTAIN MOTOR VEHICLES AND EQUIPMENT OWNED BY THE PORT ARE NO LONGER REQUIRED FOR PORT USE AND AUTHORIZING THE EXECUTIVE DIRECTOR TO SELL, DONATE OR SCRAP SURPLUS VEHICLES AND EQUIPMENT.

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**RESOLVED** that Board of Port Commissioners ("Board") hereby finds and determines that it is in the best interest of the Port to waive competitive bidding and to procure on the open market certain vehicles and equipment from vendors selected by the Executive Director or his or her designee on the basis of informal quotations as more fully described in Agenda Report Item No. 0-6 dated June 8, 2004, ("Agenda Report"); and be it

**FURTHER RESOLVED** that this Board authorizes the Executive Director or his or her designee to negotiate and enter into contracts for the procurement of same; and be it

**FURTHER RESOLVED** that certain vehicles and equipment, as more fully described said Agenda Report are inadequate, obsolete or worn out within the meaning of Section 12 of Port Ordinance No. 1606 and Section 5.13(a) of the Master Trust Indenture by and between the Port and First Trust of California, as Trustee; and be it

**FURTHER RESOLVED** that the Board finds and determines based upon information in the Agenda Report that some or all of the vehicles and equipment may be of no commercial value and/or the estimated cost of continued care, handling, maintenance or

storage may exceed the estimated proceeds of sale, within the meaning of Section 12.c of Port Ordinance No. 1606; and be it

**FURTHER RESOLVED** that the Executive Director hereby is authorized, accordingly, to abandon, destroy, dispose of as scrap or donate to public bodies, charitable, civic or non-profit organizations, or sell at private sale for the highest bidder and best bid therefor after the receipt of informal bids, such surplus vehicles and equipment as the Executive Director determines to be appropriate; and be it

**FURTHER RESOLVED** that the Executive Director be and he is hereby authorized to execute any necessary Bill of Sale in connection therewith.

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At an adjourned regular meeting held June 8, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kramer - 1





**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04167**

**RESOLUTION FINDING AND DETERMINING THAT IT IS IN THE  
BEST INTEREST OF THE PORT TO WAIVE COMPETITIVE BIDDING  
AND TO PROCURE CERTAIN GOODS AND SERVICES ON THE OPEN  
MARKET FOR FY04-05 AND AUTHORIZING THE EXECUTIVE  
DIRECTOR TO ENTER INTO CONTRACTS FOR SAME.**

**RESOLVED** that the Board of Port Commissioners ("Board") does hereby find and determine that it is in the best interest of the Port to waive competitive bidding and to procure on the open market from vendors selected by the Executive Director or his or her designee on the basis of informal quote or proposal not to exceed the maximum amount(s) described in that certain Board of Port Commissioners Agenda Report Item No. 0-7, dated June 8, 2004, the following: certain goods and services on open account(s) or other agreements; and be it

**FURTHER RESOLVED** that this Board authorizes the Executive Director or his or her designee to negotiate and enter into contracts for the procurement of same; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At an adjourned regular meeting held June 8, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kramer - 1

*WOW*

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**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04168

**RESOLUTION APPROVING BUILDING PERMIT  
REQUESTED BY TOTAL TERMINALS INTERNATIONAL,  
INC.**

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**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **TOTAL TERMINALS INTERNATIONAL INC.** ("tenant") for permission to perform certain work at 2505 Middle Harbor Road, Hanjin Terminal, Berths 55/56, Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$650,000, said work and the conditions of Port approval being the following:

- 1) Installation of optical character reading cameras mounted on pedestals;
- 2) Installation of a local area network with data and electrical lines;
- 3) Related electrical and mechanical work;
- 4) Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Guidelines Section 15301(a); and be it

**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At an adjourned regular meeting held June 8, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kramer - 1

*VON*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04169

**RESOLUTION      APPROVING      BUILDING      PERMIT  
REQUESTED      BY      SEASIDE      TRANSPORTATION  
SERVICES LLC.**

**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **SEASIDE TRANSPORTATION SERVICES LLC**. ("tenant") for permission to perform certain work at 5190-7<sup>th</sup> Street, Ben E. Nutter Terminal, Berths 35/37, Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$650,000, said work and the conditions of Port approval being the following:

- 1) Installation of optical character reading cameras mounted on pedestals;
- 2) Installation of a local area network with data and electrical lines;
- 3) Related electrical and mechanical work;
- 4) Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Guidelines Section 15301(a); and be it

**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At an adjourned regular meeting held June 8, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Scates and President Protopappas - 6

Noes: None

Absent: Commissioner Kramer - 1



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6/22/04  
MH/ps  
MH

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04170**

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF  
A TOLLING AGREEMENT WITH SHELL OIL COMPANY  
("SHELL"), CONCERNING CONTAMINATION AT THE SHELL  
NORTH FIELD TANK FARM, AT THE METROPOLITAN OAKLAND  
INTERNATIONAL AIRPORT ("THE SITE").**

\_\_\_\_\_

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the execution for and on behalf of the Board a Tolling Agreement with Shell, tolling the statute of limitations concerning certain contamination at The Site until December 31, 2005; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At an adjourned regular meeting held June 22, 2004

Passed by the following vote:

Ayes: Commissioners Batarse, Katzoff, Kiang  
Scates and President Protopappas - 5

Noes: None

Absent: Commissioners Ayers-Johnson and Kramer - 2

BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND

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RESOLUTION NO. 04171

RESOLUTION FINDING AND DETERMINING THAT IT IS IN THE BEST INTEREST OF THE PORT TO AWARD A CONTRACT TO "ACE\*COMM" FOR DESIGN, INSTALLATION AND MAINTENANCE OF A TELEPHONE BILLING SYSTEM, *NETPLUS*, AT OAKLAND INTERNATIONAL AIRPORT, OAKLAND, CALIFORNIA, WITHOUT COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF CONTRACT FOR SUCH WORK BASED ON RECEIPT OF ACE\*COMM'S INFORMAL PROPOSAL.

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**RESOLVED** that based upon the information contained in Board Agenda Report Item No. A-1, dated June 22, 2004, (herein the "Agenda Report") the Board of Port Commissioners ("Board") hereby finds and determines that it is in the best interest of the Port to accomplish **Design, Installation and Maintenance of A Telephone Billing System *NetPlus*** at Oakland International Airport, Oakland, California, without competitive bidding and that said competitive bidding is hereby waived; and be it

**FURTHER RESOLVED** that the Board hereby approves and authorizes the Executive Director to negotiate and execute a contract for **Design, Installation and Maintenance of a Telephone Billing System, at Oakland International Airport, Oakland, California**, at a total cost not to exceed \$116,296, based upon the receipt of an informal proposal from ACE\*COMM, upon terms and conditions consistent with said Agenda Report; and be it

**FURTHER RESOLVED** that, if required, a bond for the faithful performance of the work and for amounts due under the Unemployment Insurance Code shall be provided by ACE\*COMM as prescribed by the applicable laws and regulations and the terms of the contract; and be it

**FURTHER RESOLVED** that the provisions of the Port of Oakland Maritime and Aviation Project Labor Agreement ("MAPLA") do not apply to this equipment purchase; and be it



**FURTHER RESOLVED** that this resolution is not evidence of and does not create or constitute (a) a contract(s), or the grant of any right, entitlement or property interest, or (b) any obligation of liability on the part of the Board or any officer or employee of the Board. 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 as approved as to form and legality by the Port Attorney, and is delivered to the other contracting party, there shall be no valid or effective agreement(s).

At an adjourned regular meeting held June 22, 2004

Passed by the following vote:

Ayes: Commissioners Batarse, Katzoff, Kiang  
Scates and President Protopappas - 5

Noes: None

Absent: Commissioners Ayers-Johnson and Kramer - 2



6/22/04  
C-1  
VON:mj  
NON

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04172**

**RESOLUTION APPROVING FERRY SERVICE  
AGREEMENT BETWEEN CITY OF ALAMEDA AND PORT  
OF OAKLAND TO PROVIDE FERRY SERVICES TO  
JACK LONDON SQUARE.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Executive Director to execute for and on behalf of the Board that certain Ferry Service Agreement between **CITY OF ALAMEDA AND PORT OF OAKLAND**, to provide ferry services to Jack London Square, for a one-year term commencing July 1, 2004, at the rate proposed and as otherwise described in Agenda Report Item: C-1, dated June 22, 2004; and be it

**FURTHER RESOLVED** that the Executive Director is hereby authorized to reduce the amount paid by the Port for ferry service to an amount which is consistent with the level of support authorized for ferry service in the fiscal year 2004-05 budget approved by the Board.

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act and the Port CEQA Guidelines pursuant Guidelines Section 15061(b)(3); and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At an adjourned regular meeting held June 22, 2004

Passed by the following vote:

Ayes: Commissioners Batarse, Katzoff, Kiang  
Scates and President Protopappas - 5

Noes: None

Absent: Commissioners Ayers-Johnson and Kramer - 2

*ow*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04173**

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION  
OF A CERTAIN LICENSE AND CONCESSION AGREEMENT  
WITH CROWLEY MARINE SERVICES, INC.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Commercial Real Estate to execute for and on behalf of the Board a certain License and Concession Agreement between the Port and **CROWLEY MARINE SERVICES, INC.**, for 250 linear feet of wharf space at the Ninth Avenue Terminal, Oakland, California, to be used for harbor towing and docking services for tankers, container ships and other vessels in the Oakland/San Francisco Bay Area, at the rate proposed and as otherwise described in Agenda Report Item: C-2, dated June 22, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Guidelines Section 15301(p); and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At an adjourned regular meeting held June 22, 2004

Passed by the following vote:

Ayes: Commissioners Batarse, Katzoff, Kiang  
Scates and President Protopappas - 5

Noes: None

Absent: Commissioners Ayers-Johnson and Kramer - 2

*lan*

6/22/04  
C-3  
VON:mj *Woh*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04174**

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION  
OF A CERTAIN LICENSE AND CONCESSION AGREEMENT  
WITH VINCENT WU AND CAI LAN LIU, INDIVIDUALS,  
DOING BUSINESS AS LANVIE.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Commercial Real Estate to execute for and on behalf of the Board a certain License and Concession Agreement between the Port and **VINCENT WU AND CAI LAN LIU**, individuals, doing business as **LANVIE**, for approximately 800 square feet of retail space, located at 489 Water Street, Oakland, California, at the rate proposed and as otherwise described in Agenda Report Item: C-3, dated June 22, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Guidelines Section 15301(p); and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At an adjourned regular meeting held June 22, 2004

Passed by the following vote:

Ayes: Commissioners Batarse, Katzoff, Kiang  
Scates and President Protopappas - 5

Noes: None

Absent: Commissioners Ayers-Johnson and Kramer - 2

BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND

RESOLUTION NO. 04175

RESOLUTION APPOINTING JERRY BRIDGES TO THE  
POSITION OF EXECUTIVE DIRECTOR.

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**RESOLVED** that **JERRY BRIDGES**, be and he hereby is appointed to the position of Executive Director, at the Salary of \$16,667 per month, effective July 1, 2004.

At an adjourned regular meeting held June 22, 2004

Passed by the following vote:

Ayes: Commissioners Batarse, Katzoff, Kiang  
Scates and President Protopappas - 5

Noes: None

Absent: Commissioners Ayers-Johnson and Kramer - 2



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04176

**RESOLUTION CONCERNING CERTAIN APPOINTMENT.**

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**RESOLVED** that **TAY YOSHITANI**, be and he hereby is appointed to the Extra Position No. 1, together with salary and benefits provided during his appointment to the position of Executive Director, effective July 1, 2004 and for the duration of his employment contract through and including October 5, 2004; and be it

**FURTHER RESOLVED** that the Board hereby authorizes the use of all accrued vacation leave beginning October 5, 2004 until fully exhausted.

At an adjourned regular meeting held June 22, 2004

Passed by the following vote:

Ayes: Commissioners Batarse, Katzoff, Kiang  
Scates and President Protopappas - 5

Noes: None

Absent: Commissioners Ayers-Johnson and Kramer - 2

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04177**

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH SUTTERHEALTH AT WORK and CONCENTRA HEALTH SERVICES AT AN AGGREGATE MAXIMUM COMPENSATION OF \$200,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.

**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. O-3, dated June 22, 2004 (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with **SUTTERHEALTH AT WORK** and **CONCENTRA HEALTH SERVICES** for **treatment of injured employees and other occupational medicine services** 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 **SUTTERHEALTH AT WORK** and **CONCENTRA HEALTH SERVICES** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **SUTTERHEALTH AT WORK** and **CONCENTRA HEALTH SERVICES** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed (a) \$80,000 for **SUTTERHEALTH AT WORK** and (b) \$120,000 for **CONCENTRA HEALTH SERVICES**; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At an adjourned regular meeting held June 22, 2004

Passed by the following vote:

Ayes: Commissioners Batarse, Katzoff,  
Scates and President Protopappas - 4  
Noes: None  
Absent: Commissioners Ayers-Johnson and Kramer - 2  
Recused: Commissioner Kiang - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04178

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED THIRD SUPPLEMENTAL AGREEMENT WITH 2 PLUS 2 PARTNERS, INC. AT AN ADDITIONAL MAXIMUM COMPENSATION OF \$34,100 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID SUPPLEMENTAL AGREEMENT.

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**WHEREAS** by Resolution No. 01354, adopted by the Board of Port Commissioners (the "Board") on September 4, 2001, and as amended by the First Supplemental Agreement dated July 16, 2002 and the Second Supplemental Agreement dated August 5, 2003, the Board authorized an Agreement with **2 PLUS 2 PARTNERS, INC.**, for consulting services with respect to website maintenance and consultation; and

**WHEREAS** it is desirable at this time to further amend said Agreement to authorize the Executive Director of the Port to approve additional work under said Agreement as set forth in Agenda Sheet Item No. O-4, dated June 22, 2004 (herein the "Agenda Sheet"), and additional compensation for such work; now, therefore, be it

**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the proposed Third Supplemental Agreement with **2 PLUS 2 PARTNERS, INC.** 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 **2 PLUS 2 PARTNERS, INC.** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said Third Supplemental Agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **2 PLUS 2 PARTNERS, INC.** shall be compensated



for such services including costs of miscellaneous reimbursable expenses at a maximum compensation that shall not exceed an additional \$34,100; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At an adjourned regular meeting held June 22, 2004

Passed by the following vote:

Ayes: Commissioners Batarse, Katzoff, Kiang,  
Scates and President Protopappas - 5

Noes: None

Absent: Commissioners Ayers-Johnson and Kramer - 2

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04179

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED THIRD SUPPLEMENTAL AGREEMENT WITH AON RISK SERVICES, INC. OF NORTHERN CALIFORNIA AT AN ADDITIONAL MAXIMUM COMPENSATION OF \$750,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID SUPPLEMENTAL AGREEMENT.

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**WHEREAS** by Resolution No. 99082, adopted by the Board of Port Commissioners (the "Board") on March 2, 1999 and as amended by Resolution No. 03118, adopted on May 6, 2003, the Board authorized an Agreement with **AON RISK SERVICES, INC. OF NORTHERN CALIFORNIA**, for consulting services with respect to Administer the Port of Oakland's Owner Controlled Insurance Program (OCIP); and

**WHEREAS** it is desirable at this time to further amend said Agreement to authorize the Executive Director of the Port to approve the addition of AEROTEK E&E as subconsultant, as set forth in Agenda Sheet Item No. O-8, dated June 22, 2004 (herein the "Agenda Sheet"), and

**WHEREAS** it is desirable at this time to amend said Agreement to change the Workers' Compensation, Employers' Liability and Primary General Liability Insurer along with the addition of Allianz as an Excess Builders' Risk Insurer for no additional premium cost to the Port under said Agreement as set forth in the Agenda Sheet Item No. O-8, dated June 22, 2004; now, therefore, be it

**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the proposed First Supplemental Agreement with **AON RISK SERVICES, INC. OF NORTHERN CALIFORNIA** 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 **AON RISK SERVICES, INC. OF NORTHERN CALIFORNIA** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said First Supplemental Agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **AON RISK SERVICES, INC. OF NORTHERN CALIFORNIA** shall be compensated for such services including costs of miscellaneous reimbursable expenses at a maximum compensation that shall not exceed an additional \$750,000; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

\*

At an adjourned regular meeting held June 22, 2004

Passed by the following vote:

Ayes: Commissioners Batarse, Katzoff, Kiang,  
Scates and President Protopappas - 5

Noes: None

Absent: Commissioners Ayers-Johnson and Kramer - 2

*WOW*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04180

**RESOLUTION APPROVING BUILDING PERMIT  
REQUESTED BY JETBLUE AIRWAYS.**

**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **JETBLUE AIRWAYS** ("tenant") for permission to perform certain work at 10 Alan Shepard Way, Air Cargo Building M112, Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$10,000, said work and the conditions of Port approval being the following:

- 1) Installation of a hallway separation, consisting of a door and a partition wall;
- 2) Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Guidelines Section 15301(a); and be it

**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At an adjourned regular meeting held June 22, 2004

Passed by the following vote:

Ayes: Commissioners Batarse, Katzoff, Kiang,  
Scates and President Protopappas - 5

Noes: None

Absent: Commissioners Ayers-Johnson and Kramer - 2

MH

BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND

RESOLUTION NO. 04181

RESOLUTION APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE 1) A SETTLEMENT AGREEMENT AND RELEASE ("SETTLEMENT AGREEMENT") WITH AMETEK, INC., AS SUCCESSOR TO UNION DIESEL ENGINE COMPANY ("AMETEK"), 2) A DEFENSE FUNDING AGREEMENT WITH THE INSURER GROUP (DEFINED BELOW) AND 3) A TOLLING AGREEMENT WITH COHEN INDUSTRIES, INC., A SUSPENDED CALIFORNIA CORPORATION, DOING BUSINESS AS COAST IRON & METAL COMPANY AND MARVIN COHEN ("COHEN") ALL CONCERNING THE UNION POINT PARK SITE CITY OF OAKLAND V. WASTE MANAGEMENT ALAMEDA COUNTY, INC., ET AL., U.S. DISTRICT COURT, NORTHERN DISTRICT OF CALIFORNIA, CASE NO. C02-3484 CRB.

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the execution for and on behalf of the Board 1) a Settlement Agreement with Ametek, 2) a Defense Funding Agreement with the Insurer Group (Zurich Insurance Company, Century Indemnity Company, as successor in interest to CCI Insurance Company, as successor to Insurance Company of North America, J.C. Penney Life Insurance Company as successor in interest to Beneficial Fire Insurance Company, CAN Insurance Companies including Continental Insurance Company for itself and as successor to certain policies issued by Harbor Insurance Company, National Union Fire Insurance Company of Pittsburg, PA), and 3) a Tolling Agreement with Cohen, (tolling the statute of limitations concerning certain environmental claims from the date of the dismissal of the Port's Claim until June 15, 2008), all concerning the above-referenced litigation, and containing such other reasonably related and consistent terms and conditions as may be negotiated by the Executive Director; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At the regular meeting held July 6, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas - 7

Noes: None  
Absent: None

*JAC*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04182**

**RESOLUTION RATIFYING THE EXECUTION OF SETTLEMENT  
AGREEMENT, DISMISSAL OF LAWSUIT; AND AUTHORIZING AND  
APPROVING INCREASED EXPENDITURE AUTHORITY OF SPECIAL  
COUNSEL.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby ratifies the Executive Director's execution of the Settlement Agreement dated June 27, 2004, and the dismissal of the action entitled *City of Oakland v. Owner Operator Trucking Association, et al.*, (Alameda Superior Court No. RG045154747); and be it

**RESOLVED** that the Board hereby authorizes and approves increased expenditure authority of Wulfsberg, Reese, Colvig & Firstman, for final payment, as Special Counsel, part-time, pursuant to the provisions of Section 6.05 of Port Ordinance No. 867, to render expert assistance to the Port Attorney in connection with *City of Oakland v. Owner Operator Trucking Association, et al.*, (Alameda Superior Court No. RG045154747); as discussed in the confidential memorandum dated July 1, 2004, the compensation of and reimbursement for out-of-pocket expenses incurred by said Special Counsel to be made from time to time as approved by the Port Attorney; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At the regular meeting held July 6, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas - 7

Noes: None  
Absent: None

*JDC*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04183

RESOLUTION APPROVING APPOINTMENT OF SPECIAL COUNSEL.

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**RESOLVED** that the Board of Port Commissioners hereby approves the appointment of **BINGHAM, MCCUTCHEN, LLP**, pursuant to the provisions of Section 6.05 of Port Ordinance No. 867, to render expert assistance to the Port Attorney in connection with the Artship pending litigation, the compensation of and reimbursement for out-of-pocket expenses incurred by said Special Counsel to be made from time to time as approved by the Port Attorney.

At the regular meeting held July 6, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas - 7

Noes: None  
Absent: None



*PBH*

*Joe*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04184

**RESOLUTION ACCEPTING FEDERAL AVIATION  
ADMINISTRATION GRANT OFFER UNDER THE AIRPORT  
IMPROVEMENT PROGRAM ("AIP") FOR PROJECT NO. 34  
AND ACCEPTING ADDITIONAL GRANT OFFERS ON SIMILAR  
TERMS AND CONDITIONS.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby accepts and approves the Federal Aviation Administration's Grant Offer for AIP Project No. 34 in the maximum amount of \$300,000.00, as more fully set forth in Agenda Report Item No. A-1, dated July 6, 2004, ("Agenda Report") and the Executive Director is hereby authorized and directed to accept said Grant Offer; and be it

**FURTHER RESOLVED** that the Board accepts and approves future Federal Aviation Administration Grant Offers for potential additional projects up to a maximum amount of \$20,289,142.00 as more fully described in the above-referenced Agenda Report, and the Executive Director is hereby authorized and directed to accept such additional Grant Offers provided that the terms and conditions shall be the same as those contained in AIP-34; and be it

**FURTHER RESOLVED** that, and the Secretary is hereby authorized and directed to attest its execution, if deemed necessary; provided, however, that said Grant Agreement(s) shall not be binding or enforceable against the Port unless and until they are approved in writing as to form and legality by the Port Attorney.

At the regular meeting held July 6, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None

**FURTHER RESOLVED** that the Secretary of the Board is hereby authorized to advertise for four consecutive days in the official newspaper of the City of Oakland for sealed bids for the project not less than ten calendar days prior to August 12, 2004; and be it

**FURTHER RESOLVED** that this project will be covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA"); and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Section 15301, Existing Facilities.

At the regular meeting held July 6, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

*JAC*

RESOLUTION NO. 04185

**RESOLUTION REJECTING ALL BIDS FOR FURNISHING SERVICE AND MAINTENANCE FOR PASSENGER BOARDING BRIDGES FOR THE PERIOD COMMENCING JULY 1, 2004, AND ENDING JUNE 30, 2005, 2006, 2007 OR 2008; DIRECTING RETURN OF BID BONDS TO BIDDERS; AND AUTHORIZING A RE-BID.**

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**RESOLVED** that based upon the information contained in Agenda Report Item No. A-2, dated July 6, 2004 (herein "Agenda Report") the Board of Port Commissioners (herein "Board") hereby rejects all bids received on May 12, 2004, for **Furnishing Service and Maintenance for Passenger Boarding Bridges for the Period Commencing July 1, 2004 and Ending June 30, 2005, 2006, 2007 or 2008, South Field, Oakland International Airport, Oakland, California**, pursuant to Port Ordinance 1606, Section 5(e), and bid securities accompanying said bids shall be returned to the respective bidders; and be it

**FURTHER RESOLVED** that only Harris Electric submitted a timely protest, all other bidders waived the right to pursue any protest, including filing a Government Code Claim or legal proceedings; and be it

**FURTHER RESOLVED** that based upon the information contained in the Agenda Report, the Board hereby finds and determines that it is in the best interest of the Port to formally re-bid the project; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) pursuant to Public Resources Code Section 21080(b)(4) and CEQA Guidelines, Article 18, Statutory Exemptions.

At the regular meeting held July 6, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Scates and President Protopappas – 7

Noes: None

Absent: None

*CU*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

*AK*

RESOLUTION NO. 04186

RESOLUTION APPROVING PLANS AND PROJECT MANUAL FOR CONSTRUCTION OF IN-LINE EXPLOSIVES DETECTION SYSTEM, BUILDING M-363, TERMINAL 2, SOUTH FIELD, OAKLAND INTERNATIONAL AIRPORT, A.I.P. 3-06-0170-33, AND CALLING FOR BIDS THEREFOR.

RESOLVED that the Board of Port Commissioners hereby finds and determines that the development and use provided for in the plans and specifications and the subsequent use of the development approved by this resolution are in conformity with the General Plan of the City; and be it

FURTHER RESOLVED that the plans and specifications and other provisions relative thereto filed with the Board, based on the information contained in Board Agenda Report Item No. A-3, dated July 6, 2004 (herein "Agenda Report"), for Construction of In-Line Explosives Detection System, Building M-363, South Field, Oakland International Airport, Oakland, California, A.I.P. 3-06-0170-33, ("the project"), are hereby approved; and be it

FURTHER RESOLVED that the Secretary of the Board is hereby authorized to advertise for four consecutive days in the official newspaper of the City of Oakland for sealed bids for the project not less than ten calendar days prior to August 18, 2004, the date set for receiving said bids; and be it

FURTHER RESOLVED that this project will be covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA"); and be it,

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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

At the regular meeting held July 6, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None

PBH

BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND

RESOLUTION NO. 04187

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED SECOND SUPPLEMENTAL AGREEMENT WITH MWM/YHLA JOINT VENTURE ARCHITECTS FOR CONSULTING SERVICES AT A MAXIMUM COMPENSATION OF \$1,050,000 CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID SUPPLEMENTAL AGREEMENT.

---

WHEREAS by Resolution No. 03287, adopted by the Board of Port Commissioners (the "Board") on October 21, 2003 and as amended by the First Supplemental Agreement, the Board authorized an Agreement with **MWM/YHLA JOINT VENTURE ARCHITECTS**, for consulting services with respect to design of the in-line explosives detection system in Terminal 2, South Field; and

WHEREAS it is desirable at this time to further amend said Agreement to authorize the Executive Director of the Port to approve additional work under said Agreement as set forth in Agenda Sheet Item No. A-4, dated July 6, 2004 (herein the "Agenda Sheet"), and additional compensation for such work; now, therefore, be it

RESOLVED that the Board of Port Commissioners hereby finds and determines that the proposed Second Supplemental Agreement with **MWM/YHLA JOINT VENTURE ARCHITECTS** 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 **MWM/YHLA JOINT VENTURE ARCHITECTS** without competitive bidding; and be it

FURTHER RESOLVED that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said Second Supplemental Agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **MWM/YHLA JOINT VENTURE ARCHITECTS** shall be compensated for such services including costs of miscellaneous reimbursable expenses at a maximum compensation that shall not exceed an additional \$1,050,000; and be it

*JAC*

7/6/04  
A-5  
VON:mj *NON*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04188**

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION  
OF A CERTAIN LICENSE AND CONCESSION AGREEMENT  
WITH TRANSNATIONAL AVIATION SERVICES, INC.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Aviation to execute for and on behalf of the Board that certain License and Concession Agreement between the Port and **TRANSNATIONAL AVIATION SERVICES, INC.**, for continued access to the South Airport, Oakland, California, to provide passenger hosting and baggage handling services, at the rate proposed and as more fully described in Agenda Report Item A-5, dated July 6, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act and the Port CEQA Guidelines pursuant to Guidelines, Article 19, Section 15300.4 and to Class 1 of Guidelines Section 15301(p); and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held July 6, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None



mc

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04189

**RESOLUTION AUTHORIZING AND APPROVING THE  
CONTRACT WITH THE ALAMEDA COUNTY  
SHERIFF'S DEPARTMENT TO PROVIDE LAW  
ENFORCEMENT AND SECURITY SERVICES AT  
OAKLAND INTERNATIONAL AIRPORT AT AN  
ANNUAL COST OF \$6,280,356.**

---

**RESOLVED** that the Board of Port Commissioners ("Board") authorizes the Executive Director to enter into a new agreement with the **ALAMEDA COUNTY SHERIFF'S DEPARTMENT** to extend its services at an annual cost of \$6,280,356 to provide law enforcement and security services at the Oakland International Airport, as set forth in Agenda Sheet Item No. A-6, dated July 6, 2004.

At the regular meeting held July 6, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Scates and President Protopappas – 7

Noes: None

Absent: None

*me*

7/6/04  
A-7  
VON:mj *VON*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04190**

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION  
OF A CERTAIN LICENSE AND CONCESSION AGREEMENT  
WITH AVEX FLIGHT SUPPORT, INC.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Aviation to execute for and on behalf of the Board that certain License and Concession Agreement between the Port and **AVEX FLIGHT SUPPORT, INC.**, for continued access to the South Airport, Oakland, California, to provide aircraft cabin cleaning services, at the rate proposed and as more fully described in Agenda Report Item: A-7, dated July 6, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act and the Port CEQA Guidelines pursuant to Guidelines, Article 19, Section 15300.4 and to Class 1 of Guidelines Section 15301(p); and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held July 6, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None

7/6/04

Item No.: A-9

PBH/ps

PBH

*jm*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04191

**RESOLUTION APPROVING THE SUBMITTAL OF GRANT APPLICATIONS  
TO TRANSPORTATION FUND FOR CLEAN AIR ("TFCA").**

---

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves the submittal of grant applications to TFCA for TFCA funds of approximately \$350,000 to \$400,000, to offset the incremental cost of purchasing alternative fuel vehicles, as more fully set forth in Board Agenda Report Item No. A-9, dated July 6, 2004.

At the regular meeting held July 6, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None

**FURTHER RESOLVED** that the work required by these change orders will be covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA").

At the regular meeting held July 6, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None

*Clab*

*JPC*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04192

**RESOLUTION APPROVING ISSUANCE OF CHANGE ORDERS TO  
CONTRACT WITH C. OVERAA & CO., FOR CONSTRUCTION OF  
PORT FIELD SUPPORT SERVICES COMPLEX (HFC) POST BID  
PERMIT MODIFICATIONS, REVISED ENTRANCEWAY, AND  
VALUE ENGINEERING MEASURES.**

---

**RESOLVED** that the Board finds that it is in the Port's best interest to grant to the Executive Director the authority to negotiate additive change orders to **C. Overaa & Co.**, under the contract for **Construction of Port Field Support Services Complex, Building D-510, Maritime Area, Oakland, California**, for post bid drawing revisions and the anticipated entranceway revisions, in accordance with Port Ordinance 1606, Section 5(i)(3)(iv), consistent with Board Agenda Report Item No. M-1 (the "Agenda Report"), dated July 6, 2004, provided, however, that said change orders shall not be effective unless and until approved in writing by the Port Attorney, provided, however, that said change orders shall be in a form prepared by the Port Attorney and shall not be effective unless and until it is approved in writing by the Port Attorney; and be it

**FURTHER RESOLVED** that pursuant to Port Ordinance 1606, Section 5(i)(3)(iv), the Board ratifies and approves the issuance of deductive change orders to **C. Overaa & Co.**, under the contract for the **Construction of Port Field Support Services Complex, Building D-510, Maritime Area, Oakland, California** for modification of fencing, modification of utilities/roadway and extension of completion date, in the amount of \$365,000.00, consistent with the Agenda Report, provided, however, that said change orders shall be in a form prepared by the Port Attorney shall not be effective unless and until it is approved in writing by the Port Attorney; and be it

*jm*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04193

**RESOLUTION APPROVING AND AUTHORIZING  
EXECUTION OF A PROPOSED LEASE WITH GSC  
LOGISTICS, INC.**

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**RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of a lease with **GSC LOGISTICS, INC.**, a California corporation, as Lessee, covering approximately 6.84 acres comprised of Building D-512 and surrounding property located near the vicinity of the Joint Intermodal Terminal in the area designated for maritime support operations, for use as a transload facility, for an initial term of not more than one year and at a monthly rent of \$10,000.00 for the first six months and \$32,000.00 for each month thereafter, subject to extension to three years upon the effective date of an ordinance approving said lease, all in accordance with Agenda Report Item No. M-2 dated July 6, 2004, or a lease containing such other reasonably related and consistent terms and conditions as may be negotiated by the Executive Director; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At the regular meeting held July 6, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas - 7

Noes: None  
Absent: None

**FURTHER RESOLVED** that the procedure prescribed by applicable laws, regulations and the contract specifications shall be taken for the execution of said contract; provided, however, that said contract shall not be binding or enforceable against the Port unless and until it is approved in writing as to form and legality by the Port Attorney; and be it

**FURTHER RESOLVED** that this project will be covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA"), and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be statutorily exempt from requirements of the California Environmental Quality Act (CEQA) and Port CEQA guidelines pursuant to CEQA Guidelines, Section 15269, which exempts projects "necessary.to...mitigate an emergency; and be it

**FURTHER RESOLVED** that the other bids received for said contract are hereby rejected and the bid security accompanying said bids shall be returned to the proper persons.

At the regular meeting held July 6, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None

*jm*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04194**

RESOLUTION AWARDING CONTRACT FOR PERFORMING EMERGENCY SPILL RESPONSE AND HANDLING HAZARDOUS AND CONTAMINATED MATERIALS AT PORT OF OAKLAND MARITIME AND AVIATION CONSTRUCTION SITES FOR THE PERIOD COMMENCING JULY 1, 2004 AND ENDING JUNE 30, 2005, 2006 OR 2007, TO DILLARD TRUCKING, INC., A CALIFORNIA CORPORATION dba DILLARD ENVIRONMENTAL SERVICES, IN THE AMOUNT OF \$500,000, FIXING THE AMOUNT OF BONDS, AND REJECTING ALL OTHER BIDS.

---

**WHEREAS** on February 17, 2004, the Board approved the plans and specifications for this project and authorized staff to advertise for bids to be received on May 12, 2004; now, therefore be it

**RESOLVED** the Board of Port Commissioners, awards the contract for Performing Emergency Spill Response and Handling Hazardous and Contaminated Materials at Port of Oakland Maritime and Aviation Construction Sites for the Period Commencing July 1, 2004 and Ending June 30, 2005, 2006 or 2007, Oakland, California, to Dillard Trucking, Inc., a California corporation, doing business as Dillard Environmental Services (herein "Contractor"), as the lowest responsible bidder, in accordance with the terms of the bid received May 12, 2004; and be it

**FURTHER RESOLVED** that a bond for the faithful performance of the work in the amount of \$500,000.00, and a bond to guarantee the payment of all claims for labor and materials furnished and for amounts due under the Unemployment Insurance Code, in the amount of \$500,000.00 shall be provided by the Contractor(s) as prescribed by applicable laws and regulations and the contract specifications; and be it



JPC  
**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04195

**RESOLUTION ADOPTING RENEWABLES PORTFOLIO STANDARD  
FOR ELECTRIC POWER PURCHASED BY PORT FOR RESALE.**

**WHEREAS,** California Public Utilities Code Section 387 provides that each governing body of a local publicly owned electric utility, such as the Board of Port Commissioners ("Board"), shall be responsible for implementing and enforcing a renewables portfolio standard that recognizes the intent of the State Legislature to encourage renewable resources, while taking into consideration the effect of the standard on rates, reliability, and financial resources and the goal of environmental improvement; now therefore, be it

**RESOLVED,** that the Board hereby adopts a calendar year renewables portfolio standard for the electric power the Port purchases for resale of 20% renewable electric energy and a good faith objective of achieving 40% by 2017 to encourage and develop the use of renewable electric resources; and be it

**FURTHER RESOLVED,** the Board hereby adopts the following policies to meet said standard and said objective:

(1) 50% of the non-bypassable usage charge ("Charge"), established in accordance with California Public Utilities Code Section 385, will be allocated for renewable energy resources to meet the 20% standard and the 40% objective;

(2) In the event the allocated Charges are insufficient to meet the cost of achieving the 20% standard, the shortfall will be collected through increases in the Port's resale electric rates; and

(3) To the extent the allocated Charges may be insufficient to meet the cost of achieving the 40% objective, to that extent the objective will be deferred.

At the regular meeting held July 6, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None

JOE

BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND

RESOLUTION NO. 04196

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH ELATION SYSTEMS AT A MAXIMUM COMPENSATION OF \$150,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.

---

**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. O-3, dated July 6, 2004 (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with **ELATION SYSTEMS** to provide a web-based electronic payroll system 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 **ELATION SYSTEMS** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **ELATION SYSTEMS** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed \$150,000; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held July 6, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas - 7

Noes: None  
Absent: None



*jm*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04197

**RESOLUTION APPROVING LAYOFFS IN ACCORDANCE  
WITH THE PROPOSED OPERATING BUDGET FOR FISCAL  
YEAR 2004-2005.**

---

**RESOLVED** that based upon the information contained in Agenda Report Item: 0-4, dated July 6, 2004, the Board of Port Commissioners ("Board") hereby approves the layoffs necessary to conform to the proposed Operating Budget for fiscal year 2004-2005.

At the regular meeting held July 6, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Scates and President Protopappas - 6

Noes: Commissioner Kramer - 1

Absent: None



*me*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04198

**RESOLUTION TERMINATING CERTAIN APPOINTMENT**

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**RESOLVED** that the appointment of Employee No. 384297 to the position of Relief Airport Custodian (Part-time), be and the same hereby is terminated, effective the close of work day of July 7, 2004, for cause.

At the regular meeting held July 6, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas - 7

Noes: None

Absent: None

*JK*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04199

RESOLUTION APPROVING THE CAPITAL  
BUDGET FOR THE CAPITAL IMPROVEMENT  
PROGRAM FOR FISCAL YEAR 2004-2005.

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RESOLVED that the Board hereby approves the Capital Budget for the Capital Improvement Program for Fiscal Year 2004-2005 in the total amount not to exceed \$386.3 million as set forth in Board Agenda Report Item No. 0-10, dated July 6, 2004, including the capital equipment budget which is included in said Capital Improvement Program as set forth in Board Agenda Report Item No. 0-11, dated July 6, 2004; provided, however, that each separate contract under said Capital Improvement Program shall be subject to specific approval by the Board of Port Commissioners as may be required by the Charter of the City of Oakland and must be approved as to form and legality by the Port Attorney.

At the regular meeting held July 6, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Scates and President Protopappas - 7

Noes: None  
Absent: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

approval and execution of any necessary amendments to an MOU or other agreements with the City of Oakland.

**\*\*Includes Capital Appreciation Bond interest of \$1,697,455 accrued in prior Fiscal Years but paid in the current Fiscal Year. Also includes an additional Department of Boating and Waterways principal payment of \$2,441,974 (one-third of the outstanding balance) as required by the sale of the Marinas. Does not include the \$32,330,000 July 1, 2004, redemption of the 1992 Series A Special Facility Revenue Bonds paid by a draw on a tenant-provided Letter of Credit.**

The funds available to the Port to service the budgeted expenditures are estimated to consist of the following:

	<u>Funds Available</u>
Total estimated operating revenue, fiscal year 2004-05 .....	\$258,601,000.00
	-----

**and be it**

**FURTHER RESOLVED**, that the Board hereby endorses, though does not approve, the FY 2005-06 operating budget in concept based upon information provided in Agenda Report Item 0-12 dated July 6, 2004.

At the regular meeting held July 6, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Scates and President Protopappas - 6

Noes: Commissioner Kramer - 1

Absent: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

(2) Authorizations for payment are hereby made for the purpose of meeting the cost of interest expense of the Port of Oakland in such amount as is designated in the column entitled "Non-Operating" and set forth opposite the designation "Interest Expense";

(3) Authorizations for payment are hereby made for the purpose of meeting the cost of debt retirement of the Port of Oakland in such amount as is designated in the column entitled "Debt Service";

(4) All of the authorizations for payment hereinabove provided for in subsections (1), (2) and (3) are made out of the Port Revenue Fund.

Said authorizations are in the following amounts, to wit:

	<u>Appropriation</u>
Operating Expense.....	\$130,286,000.00
Interest Expense.....	\$ 59,854,000.00
*Payments to the City under MOU:	
Lake Merritt and General Services.....	\$ 1,780,103.00
**Debt Retirement.....	\$ 15,372,632.00
	-----
Total Expenditures...	\$207,292,735.00
	-----

\*Subject to the Board's declaration of a sufficient surplus, pursuant to applicable provisions of the City of Oakland City Charter and/or

*DC*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04200**

**RESOLUTION APPROVING ANNUAL OPERATING BUDGET AND AUTHORIZING  
THE EXPENDITURE OF CERTAIN MONEYS OF THE PORT OF OAKLAND FOR  
THE FISCAL YEAR 2004-2005.**

**RESOLVED** by the Board of Port Commissioners ("Board") as follows:

**Section 1.** This resolution shall be known as "The Annual Operating Budget Resolution of the Port of Oakland for the Fiscal Year 2004-2005."

**Section 2.** There are hereby authorized for the purposes of operations and other expenses, interest expense, conditional payments under certain Memoranda of Understanding with the City of Oakland and debt retirement for the fiscal year commencing July 1, 2004, the following sums of money, to the respective purposes designated, it being resolved that such authorizations are made as follows:

(1) Authorizations for payment are hereby made for the purposes of meeting the cost of salaries and wages paid officers and employees of the Port of Oakland; the cost of supplies, materials, light, power, water, transportation, insurance, inspection, communication, Port promotion, maintenance of outlay and other necessary expenses of operation and maintenance of the Port of Oakland in such amounts as are designated in the column entitled "Operating Expenses", subject, as may be appropriate, to subsequent Board authorization of particular contracts for certain of such expenditures, as required by Port Ordinance 1606, the Charter of the City of Oakland and other requirements of the Board;





7/20/04  
DLA/eh

BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND

RESOLUTION NO. 04201

RESOLUTION DECLARING ELECTION OF OFFICERS  
OF THE BOARD OF PORT COMMISSIONERS.

---

RESOLVED that after an election of officers of this Board held pursuant to its By-Laws, the following officers, to wit:

Patricia A. Scates	President
Frank Kiang	First Vice President
Anthony A. Batarse, Jr.	Second Vice President
John Betterton	Secretary
Cheryl Friedman	Assistant Secretary

hereby are declared to have been and are duly elected to serve in the capacities indicated, effective July 20, 2004, and until their successors are elected by the Board.

At the regular meeting held July 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Protopappas and President Scates - 7

Noes: None  
Absent: None

50204

*DLA*

7/20/04  
A-1  
VON:mj *WUW*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04202

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION  
OF A CERTAIN LICENSE AND CONCESSION AGREEMENT  
WITH FLIGHT WATCH USA, LLC.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Aviation to execute for and on behalf of the Board that certain License and Concession Agreement between the Port and **FLIGHT WATCH USA, LLC**, for approximately 1,673 square feet of shop space in Port Building L-810, Bay "A" and 1,964 square feet of apron space adjacent to Port L-810, Bay "D" on the North Airport, Oakland, California, at the rate proposed and as more fully described in Agenda Report Item A-1, dated July 20, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act and the Port CEQA Guidelines pursuant to Guidelines, Article 19, Section 15300.4 and to Class 1 of Guidelines Section 15301(p); and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held July 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Protopappas and President Scates - 7

Noes: None  
Absent: None

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At the regular meeting held July 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Protopappas and President Scates - 7

Noes: None

Absent: None

July 20, 2004  
M-2  
PBH/jev

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04203

**RESOLUTION AMENDING PORT RESOLUTION NO. 02333  
APPROVING ARCHITECTURAL AND ENGINEERING CONSULTING  
SERVICES FROM MOFFATT & NICHOL ENGINEERS FOR  
FACILITIES REDEVELOPMENT OF APL MIDDLE HARBOR  
TERMINAL.**

---

**RESOLVED** that Resolution No. 02287 adopted by the Board of Port Commissioners on September 3, 2002, and as amended by Resolution No. 02333 adopted by the Board on October 1, 2002, be and the same is further amended to authorize architectural and engineering design services from **MOFFATT & NICHOL ENGINEERS** with respect to design and construction support services as more fully set forth in Agenda Sheet Item No. M-2, dated July 20, 2004; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes **MOFFATT & NICHOL ENGINEERS** to proceed with the remaining design services and provide bid and construction support as set forth in Agenda Sheet Item No. M-2, dated July 20, 2004, for a total additional cost not to exceed \$2,170,000 for an aggregate maximum compensation of \$2,940,000 as originally negotiated and set forth in the Port's agreement with **MOFFATT & NICHOL ENGINEERS**, dated September 3, 2002; and be it

**FURTHER APPROVED** that the Board hereby authorizes the Executive Director to approve an additional amount to be determined by Port staff for unforeseen changes, provided that such authorization shall be in the form of a written approval by the Executive Director and shall not exceed the maximum amount previously authorized by the Board; and be it

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04204

RESOLUTION APPROVING AND AUTHORIZING REIMBURSEMENT  
PAYMENT TO EAST BAY MUNICIPAL UTILITY DISTRICT  
("EBMUD") FOR ADDITIONAL CONSTRUCTION COSTS  
ASSOCIATED WITH THE RELOCATION OF THE EXISTING  
NAVY FORCE MAIN AND GRAVITY SANITARY SEWER.

---

**RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the Port's payment to EBMUD of the amount of \$310,000, which represents the Port's share of EBMUD's additional construction costs associated with EBMUD's relocation of the existing Navy force main and gravity sanitary sewer serving the former Alameda Naval Air Station and the former Fleet and Industrial Supply Center, Oakland ("Navy Sewer"), all in accordance with Agenda Report No. M-3 dated July 20, 2004; and be it

**FURTHER RESOLVED** that such payment shall be made to EBMUD only on the conditions that upon or before such payment the Port receives from EBMUD a written release of the Port from future liability for any other EBMUD costs of design or construction associated with relocation of the Navy sewer, and that said release shall be approved by the Port Attorney.

At the regular meeting held July 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Protopoulos and President Scates - 7

Noes: None  
Absent: None

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At the regular meeting held July 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 7

Noes: None

Absent: None

*RM*

7/20/04  
Item No.: 0-1  
RCM/ps *RM*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04205**

**RESOLUTION FINDING AND DETERMINING THAT CERTAIN DELL COMPUTERS LEASED BY THE PORT ARE NO LONGER REQUIRED FOR PORT USE, THAT IT IS IN THE BEST INTEREST OF THE PORT TO DISPOSE OF SAME AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXERCISE A LEASE BUY-OUT OPTION FOR SAID COMPUTERS, AND TO SELL THE COMPUTERS TO THE OAKLAND POLICE DEPARTMENT.**

\_\_\_\_\_

**RESOLVED** that the Board of Port Commissioners hereby finds and determines that certain Dell computers, leased by the Port under terms of an agreement with Dell Marketing, are surplus and no longer required for Port use and that it is in the best interest of the Port to exercise a lease buy-out option for the computers and to sell said computers to the Oakland Police Department at cost as more fully described in Agenda Report Item No. 0-1, dated July 20, 2004 ("Agenda Report"); and be it

**FURTHER RESOLVED** that the Board hereby finds and determines in accordance with Section 5.13(b) of the Port's Master Trust Indenture, as amended, (the "Indenture") that the property being disposed of in accordance with the Agenda Report, together with all other Port Facilities (as defined in the Indenture) disposed of during the 12-month period ending on the day of such transfer (but excluding property disposed of under Section 5.13(a) of the Indenture) will not, in the aggregate, constitute a Significant Portion (as defined in the Indenture) of the Port, and the Board further directs that the proceeds of such disposition be deposited in the Port Revenue Fund to be used as required by Section 5.13 of said Indenture; and be it

**FURTHER RESOLVED** that the Executive Director hereby is authorized and directed to exercise the lease buy-out option for said computers, and to enter into an agreement with the City of Oakland to sell the computers as described in the Agenda Report; and be it

**FURTHER RESOLVED** that the Executive Director be and he is hereby authorized to execute any necessary Bill of Sale in connection therewith; and be it



**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At the regular meeting held July 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Protopappas and President Scates - 7

Noes: None  
Absent: None

*gh*

7/20/04  
S-1  
VON:mj *WV*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04206

**RESOLUTION APPROVING BUILDING PERMIT  
REQUESTED BY AMERICA WEST AIRLINES.**

**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **AMERICA WEST AIRLINES** ("tenant") for permission to perform certain work at 1 Airport Drive, Building M101 & M102, Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$43,000, said work and the conditions of Port approval being the following:

- 1) Installation of self-ticketing kiosks in front of the ticket counters;
- 2) Installation of Wide Area and Local Area Networks in the tenant's offices;
- 3) Related electrical work;
- 4) Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Guidelines Section 15301(a); and be it

**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At the regular meeting held July 20, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 7

Noes: None  
Absent: None

7/20/04  
S-2  
VON:mj

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04207

**RESOLUTION APPROVING BUILDING PERMIT  
REQUESTED BY OAKLAND FUEL FACILITIES  
CORPORATION.**

**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **OAKLAND FUEL FACILITIES CORPORATION** ("tenant") for permission to perform certain work at Aircraft Parking Slot G, Oakland International Airport, Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$365,000, said work and the conditions of Port approval being the following:

- 1) Repairs to the South Airport Hydrant Fuel System consisting of the replacement of two failed vaults;
- 2) Installation of valve assemblies and restoration of pavement in area of the work;
- 3) Related electrical and mechanical work;
- 4) Proper disposal of fuel and soil;
- 5) Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant Class 1 of Guidelines Section 15301 and Class 2 of Guidelines Section 15302; and be it



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04208

**RESOLUTION AUTHORIZING AND APPROVING RETENTION  
OF SPECIAL COUNSEL.**

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**RESOLVED** that the Board of Port Commissioners hereby ratifies and approves the appointment of **FITZGERALD, ABBOTT & BEARDSLEY LLP**, pursuant to the provisions of Section 6.05 of Port Ordinance No. 867, to render expert assistance to the Port Attorney in connection with the BayAir, Inc., unlawful detainer action and related matters, the compensation of and reimbursement for out-of-pocket expenses incurred by said Special Counsel to be made from time to time as approved by the Port Attorney.

At the regular meeting held on August 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, and President Scates - 6

Noes: None

Absent: Commissioner Protopappas - 1

for out-of-pocket expenses incurred by said Special Counsel to be made from time to time as approved by the Port Attorney; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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 the other contracting parties, there shall be no valid or effective agreement.

At the regular meeting held on August 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, and President Scates - 6

Noes: None

Absent: Commissioner Protopappas - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04209

RESOLUTION APPROVING AND AUTHORIZING THE PORT ATTORNEY TO MAKE A SECTION 998 OFFER TO O.C. JONES & SONS, INC. IN EXCHANGE FOR GENERAL WAIVER AND RELEASE; APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE ANY RESULTING SETTLEMENT AGREEMENT; AND AUTHORIZING AND APPROVING INCREASED EXPENDITURE AUTHORITY OF SPECIAL COUNSEL AND ANY NECESSARY EXPERTS.

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**RESOLVED** that the Board of Port Commissioners ("Port") hereby approves and authorizes the Port Attorney to make a Section 998 offer to O.C. Jones & Sons, Inc. in exchange for general waiver and release; and be it

**FURTHER RESOLVED** that the Board approves and authorizes the Executive Director to execute any resulting settlement agreement; and be it

**FURTHER RESOLVED** that the Board hereby approves and authorizes increased expenditures authority of the Law Firm of **WULFSBERG, REESE, COLVIG & FIRSTMAN** and any necessary experts, part-time, pursuant to provisions of Section 6.05 of Port Ordinance NO. 867, to render expert assistance to the Port Attorney in connection with Pacific Coast Building Products, Inc. v. Lumbermen's Mutual Casualty Company, et al., (Alameda No. 2001-024620); as discussed in the confidential memorandum dated July 30, 2004, the compensation of and reimbursement



*DM*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04210**

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION  
OF A CERTAIN LICENSE AND CONCESSION AGREEMENT  
WITH LLOYD W. AUBRY CO., INC.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Aviation to execute for and on behalf of the Board that certain License and Concession Agreement between the Port and **LLOYD W. AUBRY CO., INC.**, for continued access to the South Airport to provide baggage handling system maintenance, repair and installation services, Oakland, California, at the rate proposed and as more fully described in Agenda Report Item A-1, dated August 3, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act and the Port CEQA Guidelines pursuant to Guidelines, Article 19, Section 15300.4 and to Class 1 of Guidelines Section 15301(p); and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on August 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, and President Scates - 6

Noes: None

Absent: Commissioner Protopappas - 1

*OW*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04211

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF  
CERTAIN AGREEMENT TO EXTEND RIGHT-OF-ENTRY AND  
INDEMNITY AGREEMENT WITH UNITED STATES POSTAL  
SERVICE.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Aviation to execute for and on behalf of the Board that certain Agreement to Extend Right-of-Entry and Indemnity Agreement ("Extension Agreement") between the Port and **UNITED STATES POSTAL SERVICE**, for approximately 17,425 square feet of apron space in the vicinity of Building L-182 (Air Mail Facility) on the North Airport, Oakland, California, at the rate proposed and as more fully described in Agenda Report Item: A-3, dated August 3, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Article 19, Section 15300.4 and Class 1 of Guidelines Section 15301(p); and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on August 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, and President Scates - 6

Noes: None

Absent: Commissioner Protopappas - 1

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.


At the regular meeting held on August 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, and President Scates - 6

Noes: None

Absent: Commissioner Protopappas - 1

August 3, 2004  
Item No.: A-4  
PBH/jev 

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

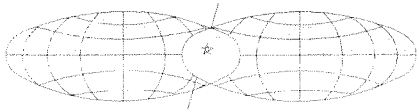
RESOLUTION NO. 04212

**RESOLUTION APPROVING CONSENT TO ASSIGNMENT  
OF RIGHTS FROM ENDYMION SYSTEMS, INC. TO  
SOLUZIONE USA FOR A CERTAIN EXISTING  
CONSULTANT AGREEMENT.**

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**WHEREAS** on October 1, 2002, the Board of Port Commissioners ("Board") approved the consultant agreement with **ENDYMION SYSTEMS, INC.** for maintenance of the Multi-User System Equipment (MUSE) at Oakland International Airport; now, therefore be it

**RESOLVED** that the Board consents and hereby grants **ENDYMION SYSTEMS, INC.** the assignment of said consultant agreement to **SOLUZIONE USA** provided that such consent is granted upon the express condition that **SOLUZIONE USA** shall assume all of the obligations and liability of **ENDYMION SYSTEMS, INC.** under said consultant agreement, whether the obligations or liabilities arose before or after the effective date of the assignment and that **ENDYMION SYSTEMS, INC.** is not hereby released from any obligation or liability under said consultant agreements, whether the obligation or liability arose before or after the effective date of the assignment to **SOLUZIONE USA**, as more fully set forth in Agenda Item No. A-4 dated August 3, 2004; and be it



**PORT OF OAKLAND**

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**MEMO**

**TO:** Cheryl Friedman  
**FROM:** Chris Lee *CL*  
**DATE:** July 30, 2004  
**SUBJECT:** Copies of Grant Offers AIP-35 & AIP-36

Attached please find the copies of the FAA Grant Offers for AIP-35 and AIP-36. Please attach them to the resolution as described on the attached Agenda Report dated August 3, 2004.

Thank you.

Attachments

Chris

# **AGENDA REPORT**

**TITLE:** Authorization to Accept the Federal Aviation Administration (FAA) AIP-25 Grant Amendment No. 1; Ratification to Accept FAA Grant Offer for AIP-35; Authorization to Accept FAA Grant Offer for AIP-36; and Amendment to Board of Port Commissioners' Resolution No. 04184 to Authorize the Acceptance of Additional Grant Offers Based on the Terms and Conditions Contained in Either AIP-34, AIP-35 or AIP-36

**AMOUNT:** (\$2,002,806) – AIP-25; \$2,000,000 – AIP-35; and \$11,040,611 – AIP-36

**PARTIES INVOLVED:**

Corporate Name	Location
Federal Aviation Administration	Burlingame, CA

**TYPE OF ACTION:** Resolution

**SUBMITTED BY:** *Jerry Serventi* Jerry Serventi, Director of Engineering

**COMMITTEE ASSIGNED:** Aviation

**HEARD BY COMMITTEE:** August 2, 2004

**APPROVED BY:** Jerry Bridges, Executive Director

## **FACTUAL BACKGROUND**

The Airport Improvement Program (AIP) was established by the Airport and Airway Improvement Act of 1982, and amended by the Airport and Airway Safety and Capacity Expansion Act of 1987. Under this program, which is administered by the Federal Aviation Administration (FAA), grants are made to public agencies and, in some cases, private owners or entities, for the planning and development of public-use airports. The FAA provides two funding sources to support the AIP: 1) entitlement funds; and, 2) discretionary funds. Entitlement funds are allocated annually based on the number of enplaning passengers and air cargo traffic units per airport; discretionary funds are made available above and beyond the entitlement funding levels for certain projects that the FAA regards as high priority in nature, principally involving improvements to airfield capacity and safety.

Projects utilizing these Airport Improvement Program (AIP) grant funds will be subject to the Port of Oakland's Disadvantaged Business Enterprise (DBE) Program. As projects are scheduled to be procured, Engineering will notify the Social Responsibility Division (SRD) of the impending schedule and work together to incorporate the DBE program requirements into the procurement process. Individual projects will be assigned a DBE goal by SRD in

concurrence with meeting the Port's overall annual DBE goal. SRD will work with the Engineering Division to devise appropriate outreach efforts to maximize DBE participation.

**ANALYSIS**

On September 25, 2001, the Board authorized the Executive Director to accept the AIP-25 Grant Offer from the FAA in the amount of \$3,159,441 to fund the Overlay of Runway 11/29 and the Construction of Infield Roadway projects.

The Overlay of Runway 11/29 project is now complete, and the FAA notified the Port that AIP-25 has to be closed out by July 2004. Therefore, an amendment request was submitted to the FAA on February 17, 2004, to delete the Infield Roadway project; and to rollover the remaining grant amount of approximately \$2M to the current Federal Fiscal Year (FFY) 03-04 to fund the Construction of Apron Improvements South of Hangars 1, 2, and 3, North Field, OIA – Phase I.

The FAA is now offering AIP-25 Grant Amendment No. 1, which decreases the maximum obligation of the grant from \$3,159,441 to \$1,156,635, and to amend the description of the Grant Agreement to delete the Construction of Infield Roadway project.

On July 6, 2004, the Board authorized the Executive Director to accept the AIP-34 Grant Offer and to accept additional grant offers for the additional projects when finally released, based upon the terms and conditions contained in AIP-34. The FAA has submitted to the Port a Grant Offer for AIP-35 in the amount of \$2M to fund the Airport Sound Insulation Program (Item No. 1). The Grant Offer AIP-35 has a special provision that is not in AIP-34, which requires the Port to obtain permission from the homeowners to perform the insulation work.

In addition, the FAA has provided a draft copy of the Grant Offer for AIP-36. The final grant offer will be identical to the draft copy. It is anticipated that the FAA will release the final grant offer prior to August 15, 2004, and the total grant offer amount will be \$11,040,611. The Manager of the FAA's Airports District Office has indicated to Port staff that it would be acceptable to the FAA if the Board of Port Commissioners were to accept the Grant Offer based upon the draft provided.

The basic FAA considerations are that the Board knows the full content of the Grant Offer. Copies of the AIP-35 and AIP-36 Grant Agreements are attached to the resolution that is the subject of this Board action.

**BUDGET & FINANCIAL IMPACT**

**Airport Sound Insulation Program**

This project is included in the CIP Item No. AA.03291.02.

**Overlay of Run-up Pad at 29 End of Runway 11-29, South Field, OIA**

This project is included in the CIP Item No. A1.00641.07.

**EDS – Terminal 2 Electrical Substation**

This project is included in the CIP Item No. A2.00284.02. The Request for Inclusion of Project in the Capital Improvement Program (RIPCIP) for the remaining projects is being prepared by Port staff. The projects will be programmed in the CIP when the RIPCIPs are completed.

**STAFFING IMPACT**

There will be no impact on current Port staff.

**SUSTAINABILITY**

In conformance with the Port's Sustainability Policy implemented in November 2000, the contractor(s) doing construction work under this grant will separate salvageable construction materials and debris for recycling, reuse, or sale

**ENVIRONMENTAL**

Projects were addressed in the Board Agenda Sheet dated July 6, 2004 (attached).

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

On September 22, 2003, the Secretary of Transportation granted the Port an exemption from the provisions of Presidential Executive Order 13202 that prohibits using a Project Labor Agreement on federally funded work. Accordingly, the provisions of the Maritime and Aviation Project Labor Agreement (MAPLA) will apply to those elements of work in this Agenda Report that are within the scope of the MAPLA.

**OWNER CONTROLLED INSURANCE PROGRAM (OCIP)**

For the purposes of this agenda, OCIP does not apply. However, because the projects noted will be funded by the CIP and the scope meets the parameters of the Owner-Controlled Insurance Program (OCIP) established by the Port, the projects will be covered within the terms and provisions of the OCIP.

**GENERAL PLAN**

Pursuant to Section 727 of the City Charter, these projects have been determined to conform to the transportation designation for the sites in the Oakland General Plan.

**LIVING WAGE**

Based upon a review of the terms of the agreement and information provided by this action, it appears that neither the Port's Living Wage Ordinance (Port Ordinance No. 3666) nor living wage requirements set forth in Section 728 of the Charter of the City of Oakland, apply at this



time because the FAA is not a "business" as defined by Port Ordinance No. 3666 or Section 728.

**OPTIONS**

The Port could choose not to amend the grant agreement and not to accept the grant offers.

**RECOMMENDATION**

It is recommended that the Board:

1. Authorize the Executive Director to accept the Federal Aviation Administration's AIP-25 Amendment No. 1 to the Grant Agreement.
2. Authorize the Executive Director to ratify the acceptance of the Federal Aviation Administration Grant Offer for AIP-35.
3. Authorize the Executive Director to accept the Federal Aviation Administration Grant Offer for AIP-36 when finally released, based upon the terms and conditions contained in the draft offer.
4. Amend Resolution No. 04184 to authorize the acceptance of additional Grant Offers, as described on July 6<sup>th</sup> Agenda Report, when finally released, based on the terms and conditions contained in either AIP-34, AIP-35 or AIP-36.

# AGENDA REPORT

<b>TITLE:</b>	Authorization to Accept Federal Aviation Administration (FAA) Grant Offer (AIP-34) in the Amount of \$300,000, and to Accept Additional Grant Offers up to the Amount of \$20,289,142.				
<b>AMOUNT:</b>	\$20,589,142				
<b>PARTIES INVOLVED:</b>	<table border="1"> <thead> <tr> <th>Corporate Name</th> <th>Location</th> </tr> </thead> <tbody> <tr> <td>Federal Aviation Administration</td> <td>Burlingame, CA</td> </tr> </tbody> </table>	Corporate Name	Location	Federal Aviation Administration	Burlingame, CA
Corporate Name	Location				
Federal Aviation Administration	Burlingame, CA				
<b>TYPE OF ACTION:</b>	Resolution				
<b>SUBMITTED BY:</b>	<i>Jerry Serventi</i> Jerry Serventi, Director of Engineering				
<b>COMMITTEE ASSIGNED:</b>	Aviation				
<b>HEARD BY COMMITTEE:</b>	June 28, 2004				
<b>APPROVED BY:</b>	<i>Jerry Bridges</i> Jerry Bridges, Executive Director				

## FACTUAL BACKGROUND

The Airport Improvement Program (AIP) was established by the Airport and Airway Improvement Act of 1982, and amended by the Airport and Airway Safety and Capacity Expansion Act of 1987. Under this program, which is administered by the Federal Aviation Administration (FAA), grants are made to public agencies and, in some cases, private owners or entities, for the planning and development of public-use airports. The FAA provides two funding sources to support the AIP: 1) entitlement funds; and, 2) discretionary funds. Entitlement funds are allocated annually based on the number of enplaning passengers and air cargo traffic units per airport; discretionary funds are made available above and beyond the entitlement funding levels for certain projects that the FAA regards as high priority in nature, principally involving improvements to airfield capacity and safety.

On August 5, 2003, the Board approved the submittal of an AIP grant application to the FAA to fund future phases of the Sound Insulation Program.

On April 6, 2004, the Board approved the submittal of an AIP grant application to the FAA to fund the following projects:

1. Airport Security CCTV Upgrade
2. Overlay of Run-up Pad at 29 End of Runway 11-29, South Field, OIA
3. Construction of Apron Improvements South of Hangars 1, 2 & 3, North Field, OIA – Phase I

4. Reconstruction of East Apron, South Field, OIA
5. Runway Safety Areas (RSAs) Study

On June 1, 2004, the Board approved the submittal of an additional AIP grant application to the FAA to fund the new Terminal 2 electrical substation.

Projects utilizing these AIP grant funds will be subject to the Port of Oakland's DBE program. As projects are scheduled to be procured, Engineering will notify Social Responsibility Division (SRD) of the impending schedule and work together to incorporate the DBE program requirements into the procurement process. Individual projects will be assigned a DBE goal by SRD in concurrence with meeting the Port's overall annual DBE goal. SRD will work with Engineering to devise appropriate outreach efforts to maximize DBE participation.

**ANALYSIS**

The FAA has submitted to the Port a Grant Offer of \$300,000 for the Runway Safety Areas (RSAs) Study (Item No.6) and is expected subsequently to submit to the Port additional Grant Offers for all or some combinations of the other projects.

A summary of the proposed funding is provided below.

<b>Project</b>	<b>Estimated Total Project Cost</b>	<b>FAA Share</b>	<b>Port Share</b>
1. Airport Sound Insulation (Submitted June 27, 2003) (Application No. 1):	\$8,406,633	\$6,774,905	\$1,631,728
2. Airport Security CCTV Upgrade (Submitted February 20, 2004) (Application No. 2):	\$1,200,000	\$967,080	\$232,920
3. Overlay of Run-up Pad at 29 End of Runway 11-29, South Field, OIA (Submitted February 20, 2004)	\$2,000,000	\$1,611,800	\$388,200
4. Construction of Apron Improvements South of Hangars 1, 2, & 3, North Field, OIA - Phase I (Submitted February 20, 2004)	\$3,683,375	\$2,968,432	\$714,943
5. Reconstruction of East Apron, South Field (Submitted February 20, 2004)	\$8,685,971	\$7,000,000	\$1,685,941
6. Runway Safety Areas (RSAs) Study (Submitted February 20, 2004)	\$372,255	\$300,000	\$72,255
<b>Subtotal (Application No. 2, Items 2 - 6):</b>	<b>\$15,941,601</b>	<b>\$12,847,312</b>	<b>\$3,094,259</b>
7. EDS - Terminal 2 Electrical Substation (Submitted May 3, 2004) (Application No. 3):	\$1,999,680	\$966,925	\$1,032,755
<b>TOTAL:</b>	<b>\$26,347,914</b>	<b>\$20,589,142</b>	<b>\$5,758,742</b>

**BUDGET & FINANCIAL IMPACT**

**Airport Sound Insulation**

This project is included in the CIP Item No. AA.03291.02.

**Runway Safety Areas (RSAs) Study**

The Request for Inclusion of Project in the Capital Improvement Program (RIPCIP) for this project is being prepared by Aviation staff. The project will be programmed in the CIP when the RIPCIP is completed.

**EDS – Terminal 2 Electrical Substation**

This project is included in the CIP Item No. A2.00284.02.

The other proposed projects will be programmed in the CIP when AIP funding becomes available.

**STAFFING IMPACT**

There will be no impact on current Port staff.

**SUSTAINABILITY**

In conformance with the Port's Sustainability Policy implemented in November 2000, the contractor(s) doing construction work under these grants will separate salvageable construction materials and debris for reuse or sale.

**ENVIRONMENTAL**

**Airport Sound Insulation**

On September 5, 2000, the Board of Port Commissioners adopted Resolution 20338 approving plans and specifications for the project. On September 11, 2000, the Port filed a categorical exemption at the Recorder's Office, County of Alameda. The statute of limitations has expired. No further action is required by the California Environmental Quality Act (CEQA).

**Airport Security CCTV Upgrade**

The proposed work involves minor interior alterations to an existing building and would not entail expansion of use beyond the current use. It is exempt pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15301, Class 1.

**Overlay of Run-up Pad at 29 End of Runway 11-29, South Field, OIA**

The project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Section 15301, Class 1, (c) and (d). Any future changes to the project description; however, will be evaluated to determine the need for additional clearance pursuant to CEQA.

**Construction of Apron Improvements South of Hangars 1, 2, & 3, North Field, OIA – Phase 1**

The project entails maintaining the existing apron in a condition that assures safe movement of aircraft in the vicinity south of Hangars 1, 2 & 3. It involves no expansion of use beyond the existing apron. This project has been determined to be categorically exempt from the requirement of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Section 15301, Class 1. Any future changes to the project description, however, will be evaluated to determine the need for additional clearance pursuant to CEQA.

**Reconstruction of East Apron Pavement, South Field, OIA**

The application is for preliminary design studies to determine future work that would be required to reconstruct the apron. It is statutorily exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15262. Additionally, the project, as described, entails maintaining the existing apron in a condition that assures safe movement of aircraft in the vicinity of Terminal 1 at the airport. It involves negligible expansion of use beyond the existing apron. This project has been determined to be categorically exempt from the requirement of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Section 15301, Class 1, (b), (c), and (d). Any future changes to the project description, however, will be evaluated to determine the need for additional clearance pursuant to CEQA.

**Runway Safety Areas (RSAs) Study**

This AIP application is for planning and engineering studies to determine future work that would be required to bring sub-standard RSAs into compliance with current standards. The Runway Safety Areas Study is statutorily exempt pursuant to California Environmental Quality Act (CEQA) Guidelines Section 15262, Feasibility and Planning Studies. The future project description(s), however, will be evaluated to determine the need for additional clearance pursuant to CEQA.

**EDS – Terminal 2 Electrical Substation**

The Board approved the project to install baggage-screening equipment as part of the Terminal Two Building Improvements for Baggage and Security Checkpoint Areas project by the Transportation Security Administration in May 2002 (Resolution No. 02125). The Notice of Exemption was filed with the County of Alameda on June 12, 2002, pursuant to the California Environmental Quality Act (CEQA). The project to install baggage-screening equipment now includes constructing an electrical substation (60 x 30 square feet and 14 feet tall) that will be placed on the roof of existing Building M-363 adjacent to Terminal 2 to provide additional electricity (also to support the Terminal 2 renovation). As a separate basis of approval, it is also exempt pursuant to CEQA Guidelines Sections 15301 (Existing Facilities), 15303 (New

Construction), and 15311 (Accessory Structures). An additional notice was filed with the County of Alameda on March 12, 2004.

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

On September 22, 2003 the Secretary of Transportation granted the Port an exemption from the provisions of Presidential Executive Order 13202 that prohibits using a Project Labor Agreement on federally funded work. Accordingly, the provisions of the Maritime and Aviation Project Labor Agreement (MAPLA) will apply to those elements of work in this Agenda Report that are within the scope of the MAPLA.

**OWNER CONTROLLED INSURANCE PROGRAM (OCIP)**

For the purposes of this agenda, OCIP does not apply. However, because the projects noted will be funded by the CIP and the scope meets the parameters of the Owner-Controlled Insurance Program (OCIP) established by the Port, the projects will be covered within the terms and provisions of the OCIP.

**GENERAL PLAN**

Pursuant to Section 727 of the City Charter, these projects have been determined to conform to the transportation designation for the sites in the Oakland General Plan.

**LIVING WAGE**

Based upon a review of the terms of the agreement and information provided by the tenant, it appears that neither the Port's Living Wage Ordinance (Port Ordinance No. 3666) nor living wage requirements set forth in Section 728 of the Charter of the City of Oakland, apply at this time because the FAA is not a "business" as defined by Port Ordinance No. 3666 or Section 728.

**OPTIONS**

The Port could choose not to accept the grant offer.

**RECOMMENDATION**

It is recommended that the Board authorize the Executive Director to accept the AIP-34 Grant Offer from the Federal Aviation Administration. It is further recommended that the Executive Director be authorized to accept the Federal Aviation Administration's Grant Offers for the additional projects when finally released, based upon the terms and conditions contained in AIP-34.

DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
GRANT AGREEMENT

Part 1 - Offer

Date of Offer July 13, 2004

Metropolitan Oakland International Airport/Planning Area

Project No. 3-06-0170-35

Contract No. DTFA08-04-C-31511

TO: Port of Oakland  
(herein called the "Sponsor")

FROM: The United States of America (acting through the Federal Aviation Administration, herein called the "FAA")

**WHEREAS**, the Sponsor has submitted to the FAA a Project Application dated June 27, 2003, for a grant of Federal funds for a project at or associated with the Metropolitan Oakland International Airport/Planning Area which Project Application, approved by the FAA, is hereby incorporated herein and made a part hereof; and

**WHEREAS**, the FAA has approved a project for the Airport or Planning Area (herein called the "Project") consisting of the following:

Noise Mitigation Measures for Residences within 65-69 CNEL (approximately 52 dwelling units)

all as more particularly described in the Project Application.

NOW THEREFORE, pursuant to and for the purpose of carrying out the provisions of Title 49, United States Code, as amended, and in consideration of (a) the Sponsor's adoption and ratification of the representations and assurances contained in said Project Application and its acceptance of this Offer as hereinafter provided, and (b) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the assurances and conditions as herein provided, THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay, as the United States share of the allowable costs incurred in accomplishing the Project, 80.59 percent of the allowable project costs.

The Offer is made on and subject to the following terms and conditions:

Conditions

1. The maximum obligation of the United States payable under this offer shall be \$2,000,000.00. For the purposes of any future grant amendments which may increase the foregoing maximum obligation of the United States under the provisions of Section 512(b) of the Act, the following amounts are being specified for this purpose:

\$0.00	for planning
\$2,000,000.00	for airport development or noise program implementation.
2. The allowable costs of the project shall not include any costs determined by the FAA to be ineligible for consideration as to allowability under the Act.
3. Payment of the United States share of the allowable project costs will be made pursuant to and in accordance with the provisions of such regulations and procedures as the Secretary shall prescribe. Final determination of the United States share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.
4. The sponsor shall carry out and complete the Project without undue delays and in accordance with the terms hereof, and such regulations and procedures as the Secretary shall prescribe, and agrees to comply with the assurances which were made part of the project application.
5. The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the sponsor.
6. This offer shall expire and the United States shall not be obligated to pay any part of the costs of the project unless this offer has been accepted by the sponsor on or before July 30, 2004, or such subsequent date as may be prescribed in writing by the FAA.
7. The sponsor shall take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner in any project upon which Federal funds have been expended. For the purposes of this grant agreement, the term "Federal funds" means funds however used or disbursed by the sponsor that were originally paid pursuant to this or any other Federal grant agreement. It shall obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. It shall return the recovered Federal share, including funds recovered by settlement, order or judgment, to the Secretary. It shall furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the sponsor, in court or otherwise, involving the recovery of such Federal share shall be approved in advance by the Secretary.

The United States shall not be responsible or liable for damage to property or injury to persons which may arise



from, or be incident to, compliance with this grant agreement.

The sponsor agrees to request cash draw downs on the letter of credit only when actually needed for its disbursements and to timely reporting of such disbursements as required. It is understood that failure to adhere to this provision may cause the letter of credit to be revoked.

10. Unless otherwise approved by the FAA, it will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured products produced outside the United States to be used for any project for airport development or noise compatibility for which funds are provided under this grant.

11. No payment shall be made under the terms of this Grant Agreement for work accomplished on privately owned land until the Sponsor submits the agreement with owner of the property required by Assurance 5d of the Assurances, Airport Sponsors, and such agreement is determined to be satisfactory. As a minimum, the agreement with the private owner must contain the following provisions:

- a. The property owner shall subject the construction work on the project to such inspection and approval during the construction or installation of the noise compatibility measures after completion of the measures as they may reasonably be requested by the Secretary or the Sponsor.
- b. The property owner shall assume the responsibility for maintenance and operation of the items installed, purchased, or constructed under this Grant Agreement. Neither the Federal Aviation Administration nor the Sponsor bears any responsibility for the maintenance and operation of these items.
- c. The owner of the private property, or the owner's agent, the property owner shall agree to maintain and make available to the Secretary or the Sponsor, upon reasonable request, records disclosing the amount of funds received and the disposition of those funds.
- d. The property owner's right to sue the owner of Airport for adverse noise impacts will be abrogated if the property owner deliberately or willfully acts to reduce or destroy the effectiveness of the noise compatibility measures during the useful life of such measures. This obligation shall remain in effect throughout the useful life of the noise compatibility measures, but not to exceed 20 years from the date of the Sponsor's acceptance of federal aid for the project.

12. It is understood and agreed by and between the parties hereto that this Grant Offer is made and accepted based on estimates; and the parties hereby covenant and agree that within 180 days from the date of acceptance of this Grant Offer, the Sponsor shall receive bids for the items contained within the grant description.

13. It is mutually understood and agreed that if, during the life of the project, the FAA determines that the maximum grant obligation of the United States exceeds the expected needs of the Sponsor by \$25,000.00 or five percent (5%), whichever is greater, the maximum obligation of the United States can be unilaterally reduced by letter from the FAA advising of the budget change. Conversely, if there is an overrun in the total actual eligible and allowable project costs, FAA may increase the maximum grant obligation of the United States to cover the amount of the overrun not to exceed the statutory percent limitation and will advise the Sponsor by letter of the increase. It is further understood and agreed that if, during the life of the project, the FAA determines that a change in the grant description is advantageous and in the best interests of the United States, the change in grant description will be unilaterally amended by letter from the FAA. Upon issuance of the aforementioned letter, either the grant obligation of the United States is adjusted to the amount specified or the grant description is amended to the description specified.

14. In accordance with Section 47108(b) of the Act, as amended, the maximum obligation of the United States, as stated in Condition No. 1 of this Grant Offer:

- a. may not be increased for a planning project;

- b. may be increased by not more than 15 percent for development projects;
- c. may be increased by not more than 15 percent for land projects.

The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be dened by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall .

comprise a Grant Agreement, as provided by the Act, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the assurances and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

UNITED STATES OF AMERICA  
FEDERAL AVIATION ADMINISTRATION  
WESTERN-PACIFIC REGION

Vernon P. Rupinta  
Vernon P. Rupinta  
Acting Manager, Airports District Office

**Part II - Acceptance**

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer and in the Project Application.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2004 .

Port of Oakland  
(NAME OF SPONSOR)

(SEAL)

By \_\_\_\_\_  
(SPONSOR'S DESIGNATED OFFICIAL REPRESENTATIVE)

Title \_\_\_\_\_

Attest: \_\_\_\_\_

Title: \_\_\_\_\_

**CERTIFICATE OF SPONSOR'S ATTORNEY**

I, \_\_\_\_\_, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of \_\_\_\_\_. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the Act. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_

\_\_\_\_\_  
SIGNATURE

- a. The date of execution by the Sponsor should be entered under Part II – Acceptance, on this page.
- b. The date of the Certificate of Sponsor's Attorney **MUST BE** the same or later than the date of execution.
- c. The original SEAL **MUST BE** stamped on this page.

DEPARTMENT OF TRANSPORTATION  
FEDERAL AVIATION ADMINISTRATION  
GRANT AGREEMENT

Part 1 - Offer

Date of Offer:

Metropolitan Oakland International Airport/Planning Area

Project No. 3-06-0170-36

Contract No. DTFA08-03-C-31XXX

TO: Port of Oakland  
(herein called the "Sponsor")

FROM: The United States of America (acting through the Federal Aviation Administration, herein called the "FAA")

**WHEREAS**, the Sponsor has submitted to the FAA two Project Applications dated February 29 and April 30, 2003, for a grant of Federal funds for a project at or associated with the Metropolitan Oakland International Airport/Planning Area which Project Application, as approved by the FAA, is hereby incorporated herein and made a part hereof; and

**WHEREAS**, the FAA has approved a project for the Airport or Planning Area (herein called the "Project") consisting of the following:

Upgrade Airport Security CCTV; Rehabilitate Run-Up Pad at Runway 29; Rehabilitate Apron South of Hangars 1,2,&3, North Field, Stage 1; Rehabilitate East Apron Pavement; Construct Terminal Electrical Substation

**DRAFT**

all as more particularly described in the Project Application.

NOW THEREFORE, pursuant to and for the purpose of carrying out the provisions of Title 49, United States Code, as amended, and in consideration of (a) the Sponsor's adoption and ratification of the representations and assurances contained in said Project Application and its acceptance of this Offer as hereinafter provided, and (b) the benefits to accrue to the United States and the public from the accomplishment of the Project and compliance with the assurances and conditions as herein provided, THE FEDERAL AVIATION ADMINISTRATION, FOR AND ON BEHALF OF THE UNITED STATES, HEREBY OFFERS AND AGREES to pay, as the United States share of the allowable costs incurred in accomplishing the Project, 80.59 percent of the allowable project costs.

The Offer is made on and subject to the following terms and conditions:

**Conditions**

1. The maximum obligation of the United States payable under this offer shall be \$11,040,611. For the purposes of any future grant amendments which may increase the foregoing maximum obligation of the United States under the provisions of Section 512(b) of the Act, the following amounts are being specified for this purpose:

\$0	for planning
\$11,040,611.00	for airport development or noise program implementation.
2. The allowable costs of the project shall not include any costs determined by the FAA to be ineligible for consideration as to allowability under the Act.
3. Payment of the United States share of the allowable project costs will be made pursuant to and in accordance with the provisions of such regulations and procedures as the Secretary shall prescribe. Final determination of the United States share will be based upon the final audit of the total amount of allowable project costs and settlement will be made for any upward or downward adjustments to the Federal share of costs.
4. The sponsor shall carry out and complete the Project without undue delays and in accordance with the terms hereof, and such regulations and procedures as the Secretary shall prescribe, and agrees to comply with the assurances which were made part of the project application.
5. The FAA reserves the right to amend or withdraw this offer at any time prior to its acceptance by the sponsor.
6. This offer shall expire and the United States shall not be obligated to pay any part of the costs of the project unless this offer has been accepted by the sponsor on or before **August 20, 2004**, or such subsequent date as may be prescribed in writing by the FAA.

**DRAFT**

7. The sponsor shall take all steps, including litigation if necessary, to recover Federal funds spent fraudulently, wastefully, or in violation of Federal antitrust statutes, or misused in any other manner in any project upon which Federal funds have been expended. For the purposes of this grant agreement, the term "Federal funds" means funds however used or disbursed by the sponsor that were originally paid pursuant to this or any other Federal grant agreement. It shall obtain the approval of the Secretary as to any determination of the amount of the Federal share of such funds. It shall return the recovered Federal share, including funds recovered by settlement, order or judgment, to the Secretary. It shall furnish to the Secretary, upon request, all documents and records pertaining to the determination of the amount of the Federal share or to any settlement, litigation, negotiation, or other efforts taken to recover such funds. All settlements or other final positions of the sponsor, in court or otherwise, involving the recovery of such Federal share shall be approved in advance by the Secretary.
8. The United States shall not be responsible or liable for damage to property or injury to persons which may arise from, or be incident to, compliance with this grant agreement.
9. The sponsor agrees to request cash drawdowns on the letter of credit only when actually needed for its disbursements and to timely reporting of such disbursements as required. It is understood that failure to adhere to this provision may cause the letter of credit to be revoked.
10. It is mutually understood and agreed that if, during the life of the project, the FAA determines that the maximum grant obligation of the United States exceeds the expected needs of the Sponsor by \$25,000.00 or five percent (5%), whichever is greater, the maximum obligation of the United States can be unilaterally reduced by letter from the FAA advising of the budget change. Conversely, if there is an overrun in the total actual eligible and allowable project costs, FAA may increase the maximum grant obligation of the United States to cover the amount of the overrun not to exceed the statutory percent limitation and will advise the Sponsor by letter of the increase. It is further understood and agreed that if, during the life of the project, the FAA determines that a change in the grant description is advantageous and in the best interests of the United States, the change in grant description will be unilaterally amended by letter from the FAA. Upon issuance of the aforementioned letter, either the grant obligation of the United States is adjusted to the amount specified or the grant description is amended to the description specified.
11. In accordance with Section 47108(b) of the Act, as amended, the maximum obligation of the United States, as stated in Condition No. 1 of this Grant Offer:
  - a) may not be increased for a planning project;
  - b) may be increased by not more than 15 percent for development projects;
  - c) may be increased by not more than 15 percent for land projects.
12. **Buy American Requirement.** Unless otherwise approved by the FAA, it will not acquire or permit any contractor or subcontractor to acquire any steel or manufactured products produced outside the United States to be used for any project for airport development or noise compatibility for which funds are provided under this grant.
13. It is understood and agreed by and between the parties hereto that this Grant Offer is made and accepted upon the basis of preliminary plans and specifications; and the parties agree that within 180 days from the date of acceptance of this Grant Offer, the Sponsor shall furnish final plans and specifications to the FAA, that no construction work will be commenced hereunder, and that no contract will be awarded for the accomplishment of such work until the said final plans and specifications have been approved by the FAA; and the parties do further agree that any reference made in this Grant Offer or in the aforesaid Application to plans and specifications shall be considered as having reference to said final plans and specifications as approved.

**DRAFT**

14. The sponsor agrees to perform the following:
  1. Furnish a construction management program to FAA prior to the start of construction which shall detail the measures and procedures to be used to comply with the quality control provisions of the construction contract, including, but not limited to, all quality control provisions and tests required by the Federal specifications. The program shall include as a minimum:
    - a. The name of the person representing the sponsor who has overall responsibility for contract administration for the project and the authority to take necessary actions to comply with the contract.
    - b. Names of testing laboratories and consulting engineer firms with quality control responsibilities on the project, together with a description of services to be provided.
    - c. Procedures for determining that testing laboratories meet the requirements of the American Society of Testing and Materials standards on laboratory evaluation, referenced in the contract specifications (D 3666, C 1077).
    - d. Qualifications of engineering supervision and construction inspection personnel.
    - e. A listing of all tests required by the contract specifications, including the type and frequency of tests to be taken, the method of sampling, the applicable test standard, and the acceptance criteria or tolerances permitted for each type of test.
    - f. Procedures for ensuring that the tests are taken in accordance with the program, that they are documented daily, and that the proper corrective actions, where necessary, are undertaken.
  2. Submit at completion of the project, a final test and quality control report documenting the results of all tests performed, highlighting those tests that failed or did not meet the applicable test standard. The report shall include the pay reductions applied and reasons for accepting any out-of-tolerance material. An interim test and quality control report shall be submitted, if requested by the FAA.
  3. Failure to provide a complete report as described in paragraph 2, or failure to perform such tests, shall, absent any compelling justification, result in a reduction in Federal participation for costs incurred in connection with construction of the applicable pavement. Such reduction shall be at the discretion of the FAA and will be based on the type of types of required tests not performed or not documented and will be commensurate with the proportion of applicable pavement with respect to the total pavement constructed under the grant agreement.
  4. The FAA, at its discretion, reserves the right to conduct independent tests and to reduce grant payments accordingly if such independent tests determine that sponsor test results are inaccurate.
15. For a project to replace or reconstruct pavement at the airport, the Sponsor shall implement an effective airport pavement maintenance management program as is required by Airport Sponsor Assurance Number C-11. The Sponsor shall use such program for the useful life of any pavement constructed, reconstructed, or repaired with federal financial assistance at the airport. As a minimum, the program must conform with the provisions outlined below:

**DRAFT**

## Pavement Maintenance Management Program

An effective pavement maintenance management program is one that details the procedures to be followed to assure that proper pavement maintenance, both preventive and repair, is performed. An airport sponsor may use any form of inspection program it deems appropriate. The program must, as a minimum, include the following:

- (1) location of all runways, taxiways, and aprons;
- (2) dimensions;
- (3) type of pavement, and;
- (4) year of construction or most recent major rehabilitation.

For compliance with the Airport Improvement Program (AIP) assurances, pavements that have been constructed, reconstructed, or repaired with federal financial assistance shall be so depicted.

### **b. Inspection Schedule.**

- (1) **Detailed Inspection.** A detailed inspection must be performed at least once a year. If a history of recorded pavement deterioration is available, i.e., Pavement Condition Index (PCI) survey as set forth in Advisory Circular 150/5380-6, "Guidelines and Procedures for Maintenance of Airport Pavements," the frequency of inspections may be extended to three years.
- (2) **Drive-By Inspection.** A drive-by inspection must be performed a minimum of once per month to detect unexpected changes in the pavement condition.

### **c. Record Keeping.** Complete information on the findings of all detailed inspections and on the maintenance performed must be recorded and kept on file for a minimum of five years. The types of distress, their locations, and remedial action, scheduled or performed, must be documented. The minimum information to be recorded is listed below:

- (1) inspection date,
- (2) location,
- (3) distress types, and
- (4) maintenance scheduled or performed.

For drive-by inspections, the date of inspection and any maintenance performed must be recorded.

### **d. Information Retrieval.** An airport sponsor may use any form of record keeping it deems appropriate, so long as the information and records produced by the pavement survey can be retrieved to provide a report to the FAA as may be required.

### **e. Reference.** Refer to Advisory Circular 150/5380-6, "Guidelines and Procedures for Maintenance of Airport Pavements," for specific guidelines and procedures for maintaining airport pavements and establishing an effective maintenance program. Specific types of distress, their probable causes, inspection guidelines, and recommended methods of repair are presented.

16. Approval of the project included in this agreement is conditioned on the Sponsor's compliance with applicable air and water quality standards in accomplishing project construction. Failure to comply with this requirement may result in suspension, cancellation, or termination of Federal assistance under this agreement.
17. For purposes of computing the United States' share of the allowable project costs, the allowable cost of the Terminal Electrical Substation included in the project shall not exceed 50 percent.

**DRAFT**



The Sponsor's acceptance of this Offer and ratification and adoption of the Project Application incorporated herein shall be evidenced by execution of this instrument by the Sponsor, as hereinafter provided, and this Offer and Acceptance shall comprise a Grant Agreement, as provided by the Act, constituting the contractual obligations and rights of the United States and the Sponsor with respect to the accomplishment of the Project and compliance with the assurances and conditions as provided herein. Such Grant Agreement shall become effective upon the Sponsor's acceptance of this Offer.

UNITED STATES OF AMERICA  
FEDERAL AVIATION ADMINISTRATION  
WESTERN-PACIFIC REGION

\_\_\_\_\_  
Andrew M. Richards  
Manager, Airports District Office

**Part II - Acceptance**

The Sponsor does hereby ratify and adopt all assurances, statements, representations, warranties, covenants, and agreements contained in the Project Application and incorporated materials referred to in the foregoing Offer and does hereby accept this Offer and by such acceptance agrees to comply with all of the terms and conditions in this Offer and in the Project Application.

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

Port of Oakland  
(NAME OF SPONSOR)

(SEAL)

By \_\_\_\_\_  
(SPONSOR'S DESIGNATED OFFICIAL REPRESENTATIVE)

Title \_\_\_\_\_

Attest: \_\_\_\_\_

Title: \_\_\_\_\_

**DRAFT**

CERTIFICATE OF SPONSOR'S ATTORNEY

I, \_\_\_\_\_, acting as Attorney for the Sponsor do hereby certify:

That in my opinion the Sponsor is empowered to enter into the foregoing Grant Agreement under the laws of the State of \_\_\_\_\_. Further, I have examined the foregoing Grant Agreement and the actions taken by said Sponsor and Sponsor's official representative has been duly authorized and that the execution thereof is in all respects due and proper and in accordance with the laws of the said State and the Act. In addition, for grants involving projects to be carried out on property not owned by the Sponsor, there are no legal impediments that will prevent full performance by the Sponsor. Further, it is my opinion that the said Grant Agreement constitutes a legal and binding obligation of the Sponsor in accordance with the terms thereof.

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_, 2004.

\_\_\_\_\_  
SIGNATURE OF SPONSOR'S ATTORNEY

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**FURTHER RESOLVED** that the Board authorizes and approves the amendment to Resolution No. 04184 to authorize the acceptance of additional grant offers as more fully described in said Agenda Report, based on the terms and conditions contained in either AIP-34, AIP-35 or AIP 36; and be it

**FURTHER RESOLVED** that, and the Secretary is hereby authorized and directed to attest its execution, if deemed necessary; provided, however, that said Grant Agreement(s) shall not be binding or enforceable against the Port unless and until they are approved in writing as to form and legality by the Port Attorney.

At the regular meeting held on August 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, and President Scates - 6

Noes: None

Absent: Commissioner Protopappas - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04213

RESOLUTION ACCEPTING FEDERAL AVIATION  
ADMINISTRATION ("FAA") AIRPORT IMPROVEMENT  
PROGRAM ("AIP") AIP-25 GRANT AMENDMENT NO. 1;  
RATIFYING THE ACCEPTANCE OF FAA GRANT OFFER FOR  
AIP-35; ACCEPTING FAA GRANT OFFER FOR AIP-36; AND  
AMENDMENT TO BOARD OF PORT COMMISSIONERS'  
RESOLUTION NO. 04184 AUTHORIZING ACCEPTANCE OF  
ADDITIONAL GRANT OFFERS BASED ON THE TERMS AND  
CONDITIONS CONTAINED IN EITHER AIP-34, AIP-35 OR  
AIP-36.

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**RESOLVED** that the Board of Port Commissioners ("Board") hereby accepts and approves the FAA's Grant Amendment No. 1 for AIP Project No. 25, as more fully set forth in Agenda Report Item No. A-6, dated August 3, 2004, ("Agenda Report") and the Executive Director is hereby authorized and directed to accept said Grant Amendment; and be it

**FURTHER RESOLVED** that the Board ratifies and approves the acceptance of FAA Grant Offer for AIP-35 in the maximum amount of \$2,000,000 as more fully described in the above-referenced Agenda Report, and the Executive Director is hereby authorized and directed to accept such additional Grant Offer; and be it

**FURTHER RESOLVED** that the Board approves the acceptance of FAA Grant Offer for AIP-36 in the maximum amount of \$11,040,611, as more fully described in the above-referenced Agenda Report, and the Executive Director is hereby authorized and directed to accept such additional Grant Offer; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically except from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA guidelines pursuant to Public Resources Code Section 21080(b)(4) necessary to mitigate an emergency; CEQA Guidelines, Section 15269(c) for emergency projects, Class 1 and Section 15301(a) and (f), Existing Facilities.

At the regular meeting held on August 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, and President Scates - 6

Noes: None

Absent: Commissioner Protopappas - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04214

RESOLUTION APPROVING PLANS AND PROJECT MANUAL FOR  
CONSTRUCTION OF SECURITY SYSTEM ON TAXIWAY B OVERPASS,  
NORTH FIELD, OAKLAND INTERNATIONAL AIRPORT, AIP NO. 3-  
06-0170-32, AND CALLING FOR BIDS THEREFOR.

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**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the development and use provided for in the plans and specifications and the subsequent use of the development approved by this resolution are in conformity with the General Plan of the City; and be it

**FURTHER RESOLVED** that the plans and specifications and other provisions relative thereto filed with the Board, based on the information contained in Board Agenda Report Item No. A-7, dated August 3, 2004 (herein "Agenda Report"), for **Construction of Security System on Taxiway B Overpass, North Field, Oakland International Airport, Oakland, California, AIP NO. 3-06-0170-32**, ("the project"), are hereby approved; and be it

**FURTHER RESOLVED** that the Secretary of the Board is hereby authorized to advertise for four consecutive days in the official newspaper of the City of Oakland for sealed bids for the project not less than ten calendar days prior to September 8, 2004, the date set for receiving said bids; and be it

**FURTHER RESOLVED** that this project will be covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA"); and be it,

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said Second Supplemental Agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **CARTER & BURGESS, INC.** shall be compensated for such services including costs of miscellaneous reimbursable expenses at a maximum compensation that shall not exceed an additional \$270,000; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At the regular meeting held on August 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, and President Scates - 6

Noes: None

Absent: Commissioner Protopappas - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04215

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED SECOND SUPPLEMENTAL AGREEMENT WITH CARTER & BURGESS, INC. AT AN ADDITIONAL MAXIMUM COMPENSATION OF \$270,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID SUPPLEMENTAL AGREEMENT.

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**WHEREAS** by Resolution No. 03324, adopted by the Board of Port Commissioners (the "Board") on December 2, 2003, and as amended by the First Supplemental Agreement dated April 20, 2004, the Board authorized an Agreement with **CARTER & BURGESS, INC.**, for consulting services with respect to engineering services for reconstruction of East Apron - Phase 1, South Field; and

**WHEREAS** it is desirable at this time to further amend said Agreement to authorize the Executive Director of the Port to approve additional work under said Agreement for the design of the (1) Terminal 2 Concourse Extension hydrant fueling system with an extension to the Taxiway T Remain Overnight Apron; (2) electrical, telephone, and control conduits to the Taxiway T Remain Overnight Apron; (3) stadium improvements; (4) helicopter landing pads; and (5) PCC pavement design for the entire Phase 1 Apron Project, as more fully set forth in Agenda Sheet Item No. A-8, dated August 3, 2004 (herein the "Agenda Sheet"), and additional compensation for such work; now, therefore, be it

**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the proposed Second Supplemental Agreement with **CARTER & BURGESS, INC.** 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 **CARTER & BURGESS, INC.** without competitive bidding; and be it

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04216

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF AN  
AMENDMENT TO AGREEMENT WITH MONTEZUMA WETLANDS, LLC  
(DISPOSAL OF DREDGED MATERIAL AT THE MONTEZUMA  
WETLANDS RESTORATION PROJECT SITE).**

**RESOLVED** that based upon the information contained in Board Agenda Report Item No. M-1 dated August 3, 2004 ("Agenda Report"), and on terms consistent with the Agenda Report, the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of an agreement which amends the November 6, 2001, Agreement between the Port and **MONTEZUMA WETLANDS, LLC** ("Montezuma") for disposal of dredged material at the Montezuma Wetlands Restoration Project Site ("MWRP Site"), by allowing Montezuma to defer payment to the Port of \$2.00 per cubic yard for the first approximately 600,000 cubic yards of dredged material received at the MWRP Site, and requiring Montezuma to pay \$2.50 per cubic yard for said approximately 600,000 cubic yards of dredged material and subsequent dredged material received at the MWRP Site, the first such payment to commence after receipt of the subsequent dredged material at the MWRP Site; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement amending said November 6, 2001, Agreement in accordance with the terms of this resolution. Unless and until a separate written amendment 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 amendment agreement.

At the regular meeting held on August 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, and President Scates - 6

Noes: None

Absent: Commissioner Protopappas - 1



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

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**RESOLUTION NO. 04217**

**RESOLUTION APPROVING AND AUTHORIZING THE ADVANCEMENT OF FUNDS TO THE FEDERAL GOVERNMENT FOR DEEPENING OF THE OAKLAND HARBOR CHANNELS TO AN INTERIM CHANNEL DEPTH OF -46 FEET AND AMENDING THE PROJECT COOPERATION AGREEMENT WITH THE DEPARTMENT OF THE ARMY FOR CONSTRUCTION OF THE OAKLAND HARBOR NAVIGATION IMPROVEMENT (-50 FOOT) PROJECT.**

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**RESOLVED** that based upon the information contained in Board Agenda Report Item No. M-2 dated August 3, 2004 ("Agenda Report"), the Board of Port Commissioners ("Board") hereby approves and authorizes the advancement of up to \$30 million of Port funds to the Federal Government for deepening of the Oakland Harbor channels to an interim channel depth of -46 feet and authorizes the Executive Director on behalf of the Board to execute an amendment to the July 24, 2001, Project Cooperation Agreement Between the Department of the Army and the Port of Oakland for construction of the Oakland Harbor Navigation Improvement (-50 Foot) Project to accommodate such a Port advancement of funds, and such other agreement(s) with the Federal Government as may be necessary to achieve the -46 channel deepening, and the Executive Director and the Port Attorney are authorized to take such other consistent actions as may be deemed necessary or appropriate in connection with such advancement of funds or to achieve the -46 channel deepening; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an amendment or agreement(s) in accordance with the terms of this resolution. Unless and until a separate written amendment or 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 amendment or agreement.

At the regular meeting held on August 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, and President Scates - 6

Noes: None

Absent: Commissioner Protopappas - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04218

RESOLUTION APPROVING NEGOTIATION AND EXECUTION OF CHANGE ORDERS TO CONTRACT WITH MANSON CONSTRUCTION CO. (220319) FOR THE BERTH 22 WHARF REPLACEMENT PROJECT FOR THE COSTS ASSOCIATED WITH THE DREDGED, PETROLEUM LADEN MATERIAL.

RESOLVED that pursuant to Port Ordinance 1606, Section 5(i)(3)(iv), the Board of Port Commissioners hereby approves and authorizes the Executive Director to negotiate and execute additive change orders with **Manson Construction Co. (220319)**, under the contract for **Berth 22 Wharf Replacement, Outer Harbor, Oakland, California**, consisting of mitigation of the adverse impacts that resulted from the encounters with petroleum-laden material during the dredging phase of the Berth 22 Wharf Replacement Project, consistent with Board Agenda Report Item M-3, dated August 3, 2004, provided, however, that said change order(s) shall be in a form prepared by the Port Attorney and shall not be effective unless and until approved in writing by the Port Attorney; and be it

FURTHER RESOLVED that this project will be covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA").

At the regular meeting held on August 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, and President Scates - 6

Noes: None

Absent: Commissioner Protopappas - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

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.

At the regular meeting held on August 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, and President Scates - 6

Noes: None

Absent: Commissioner Protopappas - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04219**

**RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH INSPECTION SERVICES, INC. AT A MAXIMUM COMPENSATION OF \$200,000 ANNUALLY FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.**

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**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. **M-4**, dated **August 3, 2004** (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with **INSPECTION SERVICES, INC.** for **on-call structural inspection and material testing services for Port of Oakland cranes** 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 **INSPECTION SERVICES, INC.** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **INSPECTION SERVICES, INC.** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed \$200,000 annually, for a period of one (1) year with the option in favor of the Port for two (2) annual renewals at an amount not to exceed \$200,000 per year as approved by the Executive Director; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement is duly executed on behalf of the Board as authorized by this resolution, is signed and

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

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.

At the regular meeting held on August 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, and President Scates - 6

Noes: None

Absent: Commissioner Protopappas - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04220

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH TESTING ENGINEERS, INC. AT A MAXIMUM COMPENSATION OF \$200,000 ANNUALLY FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.

---

**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. **M-4**, dated **August 3, 2004** (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with **TESTING ENGINEERS, INC.** for **on-call structural inspection and material testing services for Port of Oakland cranes** 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 **TESTING ENGINEERS, INC.** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **TESTING ENGINEERS, INC.** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed \$200,000 annually, for a period of one (1) year with the option in favor of the Port for two (2) annual renewals at an amount not to exceed \$200,000 per year as approved by the Executive Director; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement is duly executed on behalf of the Board as authorized by this resolution, is signed and

**FURTHER RESOLVED** that the provisions of the Port of Oakland Maritime and Aviation Project Labor Agreement (MAPLA) do not apply to this work; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Section 15269, which provides for a statutory exemption for emergency projects; and Section 15301, which consists of repair, maintenance and minor alteration of existing structures, facilities and mechanical equipment; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of a grant agreement in accordance with the terms of this resolution. Unless and until a separate written grant agreement 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 other contracting party, there shall be no valid or effective grant agreement.

At the regular meeting held on August 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, and President Scates - 6

Noes: None

Absent: Commissioner Protopappas - 1

*RCM*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04221

RESOLUTION APPROVING AND RATIFYING AMOUNT  
EXCEEDING THE PURCHASE ORDER CONTRACT LIMITS TO  
CONTRACT(S) WITH CHRISTIE CONSTRUCTORS, INC. FOR  
EMERGENCY REPAIRS TO PORT OF OAKLAND CRANES, AT A  
COST OF \$16,346.50.

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**WHEREAS**, throughout fiscal year 2003-2004, the Port entered into Purchase Order Contracts with **Christie Constructors, Inc.** in the sums of \$6,804.21, for gantry rail repair, and \$43,165.81 for welding and rail grinding on cranes X425 and X426; and

**WHEREAS**, during the course of the fiscal year the Port issued two additional Purchase Order Contracts for emergency crack repairs to cranes X425, X438 and X439, totaling \$16,346.50, bringing the total contract costs to \$66,346.50, respectively; now, therefore, be it

**RESOLVED** that based upon the information contained in Board Agenda Report Item No. M-5 dated August 3, 2004 (herein the "Agenda Report"), the Board of Port Commissioners ("Board") hereby finds and determines that it is in the best interest of the Port to accomplish the additional work, without competitive bidding and that said competitive bidding is hereby waived; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and ratifies issuance to **Christie Constructors, Inc.**, of change orders under the purchase order contracts for the fiscal year 2003-2004 emergency crane repairs, in the amount of 16,346.50, respectively, consistent with the Agenda Report.



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04222

RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF AN AMENDMENT TO THE COVENANT TO RESTRICT USE OF PROPERTY ("CRUP AMENDMENT") AND AN AGREEMENT, OPERATION AND MAINTENANCE ("O & M AGREEMENT"), BOTH WITH THE STATE DEPARTMENT OF TOXIC SUBSTANCES CONTROL ("DTSC"); CONCERNING THE CHARLES P. HOWARD TERMINAL ("HOWARD TERMINAL").

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**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the execution for and on behalf of the Board a CRUP Amendment and O & M Agreement with DTSC, regarding Howard Terminal, as more fully described in Agenda Report Item No. M-6 dated August 3, 2004, ("Agenda Report"; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party or parties, there shall be no valid or effective agreement.

At the regular meeting held on August 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, and President Scates - 6

Noes: None

Absent: Commissioner Protopappas - 1

August 3, 2004  
Item No.: M-7  
RW:LST

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04223**

RESOLUTION APPROVING, ACCEPTING AND AUTHORIZING THE EXECUTIVE DIRECTOR, OR HIS DESIGNEE TO SIGN ALL PERMITS ISSUED FOR THE BERTHS 35-37 WHARF EMBANKMENT AND STRENGTHENING PROGRAM BY THE SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION AND THE UNITED STATES ARMY CORPS OF ENGINEERS, AND TO ACCEPT THE TERMS OF THE WATER QUALITY CERTIFICATION ISSUED BY THE SAN FRANCISCO REGIONAL WATER QUALITY CONTROL BOARD, AND AUTHORIZING IMPLEMENTATION OF PERMIT CONDITION WITH EXPENDITURES UP TO \$320,000.

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**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves acceptance of all regulatory permits including Water Quality Certification for Construction of the Berths 35-37 Wharf Embankment and Strengthening Program from San Francisco Bay Conservation and Development Commission ("BCDC") and authorizes the Executive Director or his Designee to sign the permits issued for the Berths 35-37 Wharf Embankment Strengthening Program by the San Francisco Bay Conservation and Development Commission and the U.S. Army Corps of Engineers, and to accept the terms of the water quality certification issued by the San Francisco Regional Water Quality Control Board, all in accordance with Agenda Sheet Item No. M-7, dated August 3, 2004; and be it

**FURTHER RESOLVED** that the Board authorizes related implementation expenditures in amounts up to \$320,000; and be it

**FURTHER RESOLVED** that the Board finds and determines, as set forth in the August 3, 2004 Board Agenda Report, the Board's actions contained herein are supported by the Oakland Harbor Navigation (-50 foot) Project EIS/EIR and the -50 foot Project EIS/EIR, and that requirements of the California Environmental Quality Act ("CEQA") have been satisfied, and that the Board relies upon those CEQA determinations for approval of this resolution; and be it

**FURTHER RESOLVED** that the location and custodian of the documents or other material which constitute the record of proceedings upon which the Board's decision is based respectively are 530 Water Street, Oakland, California, and the Secretary of the Board; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the acceptance of regulatory permits, including implementation of permit conditions and execution of related agreements with applicable regulatory agencies, in accordance with the terms of this resolution. Unless and until a separate written permit and/or agreement 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 other contracting or permitting party, there shall be no valid or effective agreement or permit.

At the regular meeting held on August 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, and President Scates - 6

Noes: None

Absent: Commissioner Protopappas - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04224

**RESOLUTION APPOINTING WILSON LACY TO  
THE POSITION OF DIRECTOR OF MARITIME.**

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**RESOLVED** that **WILSON LACY**, be and he hereby is appointed to the position of Director of Maritime, effective August 14, 2004, at a salary of \$11,500 per month.

At the regular meeting held on August 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer and President Scates - 6

Noes: None

Absent: Commissioner Protopappas - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04225

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH CORVEL CORPORATION AT A MAXIMUM COMPENSATION OF \$100,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.

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**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. O-2, dated August 3, 2004 (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with **CORVEL CORPORATION** to provide workers' compensation medical bill review service and utilization review service 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 **CORVEL CORPORATION** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **CORVEL CORPORATION** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed \$100,000; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on August 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, and President Scates - 6

Noes: None

Absent: Commissioner Protopappas - 1

BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND

RESOLUTION NO. 04226

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH DYNAMIC NETWORKING SOLUTIONS (DNS) AT A MAXIMUM COMPENSATION OF \$60,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.

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**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. O-3, dated **August 3, 2004** (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with **DYNAMIC NETWORKING SOLUTIONS (DNS)** for **Novell network support and maintenance** 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 **DYNAMIC NETWORKING SOLUTIONS (DNS)** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **DYNAMIC NETWORKING SOLUTIONS (DNS)** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed **\$60,000**; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on August 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, and President Scates - 6

Noes: None

Absent: Commissioner Protopappas - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04227**

**RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH CISCO SYSTEMS, INC. AT A MAXIMUM COMPENSATION OF \$50,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.**

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**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. O-3, dated **August 3, 2004** (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with **CISCO SYSTEMS, INC.** for **network equipment maintenance** 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 **CISCO SYSTEMS, INC.** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **CISCO SYSTEMS, INC.** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed **\$50,000**; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on August 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, and President Scates - 6

Noes: None

Absent: Commissioner Protopappas - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04228

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH HEWLETT PACKARD COMPANY (HP) AT A MAXIMUM COMPENSATION OF \$60,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.

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**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. O-3, dated **August 3, 2004** (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with **HEWLETT PACKARD COMPANY (HP)** for **network servers support and maintenance of HP3000** 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 **HEWLETT PACKARD COMPANY (HP)** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **HEWLETT PACKARD COMPANY (HP)** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed **\$60,000**; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on August 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, and President Scates - 6

Noes: None

Absent: Commissioner Protopappas - 1



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04229

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH SBC COMMUNICATIONS, INC. (SBC) AND NORTEL NETWORKS CORPORATION AT A MAXIMUM COMPENSATION OF \$290,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.

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**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. O-3, dated **August 3, 2004** (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with **SBC COMMUNICATIONS, INC. (SBC) AND NORTEL NETWORKS CORPORATION** for **voice and data services; PBX support and maintenance** 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 **SBC COMMUNICATIONS, INC. (SBC) AND NORTEL NETWORKS CORPORATION** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **SBC COMMUNICATIONS, INC. (SBC) AND NORTEL NETWORKS CORPORATION** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed **\$290,000**; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on August 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, and President Scates - 6

Noes: None

Absent: Commissioner Protopappas - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04230

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH GEAC COMPUTER CORPORATION LTD. (GEAC) AT A MAXIMUM COMPENSATION OF \$130,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.

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**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. O-3, dated August 3, 2004 (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with **GEAC COMPUTER CORPORATION LTD. (GEAC)** for **Smartstream financial software maintenance** 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 **GEAC COMPUTER CORPORATION LTD. (GEAC)** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **GEAC COMPUTER CORPORATION LTD. (GEAC)** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed **\$130,000**; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on August 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, and President Scates - 6

Noes: None

Absent: Commissioner Protopappas - 1

BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND

RESOLUTION NO. 04231

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH COMPUCOM SYSTEMS, INC. (COMPUCOM), AT A MAXIMUM COMPENSATION OF \$150,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.

**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. O-3, dated August 3, 2004 (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with **COMPUCOM SYSTEMS, INC. (COMPUCOM)**, for **computer hardware, software, licensing and support** 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 **COMPUCOM SYSTEMS, INC. (COMPUCOM)**, without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **COMPUCOM SYSTEMS, INC. (COMPUCOM)**, shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed **\$150,000**; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on August 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, and President Scates - 6

Noes: None

Absent: Commissioner Protopappas - 1

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said First Supplemental Agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **GENERAL NETWORKS CORPORATION** shall be compensated for such services including costs of miscellaneous reimbursable expenses at a maximum compensation that shall not exceed an additional \$309,000 unless additional work up to an additional amount of n/a is approved in writing by the Executive Director; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At the regular meeting held on August 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, and President Scates - 6

Noes: None

Absent: Commissioner Protopappas - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04232

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED FIRST SUPPLEMENTAL AGREEMENT WITH GENERAL NETWORKS CORPORATION AT AN ADDITIONAL MAXIMUM COMPENSATION OF \$309,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID SUPPLEMENTAL AGREEMENT.

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**WHEREAS** by Resolution No. 02213, adopted by the Board of Port Commissioners (the "Board") on July 2, 2002, the Board authorized an Agreement with **GENERAL NETWORKS CORPORATION**, for consulting services with respect to Implementation of an Information Assets Management System Project; and

**WHEREAS** it is desirable at this time to further amend said Agreement to authorize the Executive Director of the Port to approve additional work under said Agreement as set forth in Agenda Sheet Item No. O-4, dated August 3, 2004 (herein the "Agenda Sheet"), and additional compensation for such work; now, therefore, be it

**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the proposed First Supplemental Agreement with **GENERAL NETWORKS CORPORATION** 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 **GENERAL NETWORKS CORPORATION** without competitive bidding; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At the regular meeting held on August 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, and President Scates - 6

Noes: None

Absent: Commissioner Protopappas - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04233

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED SUPPLEMENTAL AGREEMENT WITH GEOFF DORN AT A MAXIMUM COMPENSATION OF \$60,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID SUPPLEMENTAL AGREEMENT.

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**WHEREAS** by Resolution No. 03015, adopted by the Board of Port Commissioners (the "Board") on January 21, 2003, the Board authorized an Agreement with **GEOFF DORN**, for consulting services with respect to public art consultation and administrative services; and

**WHEREAS** it is desirable at this time to further amend said Agreement to authorize the Executive Director of the Port to approve additional work under said Agreement as set forth in Agenda Sheet Item No. O-5, dated August 3, 2004 (herein the "Agenda Sheet"), and additional compensation for such work; now, therefore, be it

**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the proposed First Supplemental Agreement with **GEOFF DORN** 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 **GEOFF DORN** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said First Supplemental Agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **GEOFF DORN** shall be compensated for such services including costs of miscellaneous reimbursable expenses at a maximum compensation that shall not exceed an additional \$60,000; and be it

*RDM*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04234

RESOLUTION FINDING AND DETERMINING THAT THREE PROPOSED AGREEMENTS FOR THE COMMISSION OF ARTWORK FOR THE OAKLAND INTERNATIONAL AIRPORT CONSTITUTE PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENTS FOR THE ARTWORK, AS FOLLOWS: WITH ALAN RATH FOR COMMISSION OF ARTWORK FOR THE ESCALATOR WALL AT TERMINAL 2, TOTAL COST NOT TO EXCEED \$100,000; WITH JOYCE HSU FOR COMMISSION OF A SCULPTURE FOR THE PARKING GARAGE, EAST PLAZA, TOTAL COST NOT TO EXCEED \$300,000; AND, WITH HUNG LIU FOR COMMISSION OF ARTWORK FOR THE WINDOW IN TERMINAL 2, TOTAL COST NOT TO EXCEED \$240,000.

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**RESOLVED** that based upon the information contained in Board of Port Commissioners ("Board") Agenda Report Item No. 0-6, dated August 3, 2004 (the "Agenda Report"), the Board hereby finds and determines that proposed agreements for the commission of artwork for the Oakland International Airport will constitute agreements 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 the services and commission the artwork, including design, fabrication and installation, without competitive bidding as follows: with Alan Rath for commission of artwork for the Escalator Wall at Terminal 2, for total cost not to exceed \$100,000; with Joyce Hsu for commission of a sculpture for the Parking Garage, East Plaza, for a total cost not to exceed \$300,000; and, with Hung Liu for commission of artwork for the Window in Terminal 2, for total cost not to exceed \$240,000; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreements, upon terms and conditions consistent with the Agenda Report and providing that the agreements shall provide for



compensation for design, fabrication, and installation of artwork, including costs of miscellaneous reimbursable expenses, at maximum costs that shall not exceed the amounts indicated above; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement with each contracting party in accordance with the terms of this resolution. Unless and until a separate written agreement with each contracting party 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 other contracting party, there shall be no valid or effective agreement with said party.

At the regular meeting held on August 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, and President Scates - 6

Noes: None

Absent: Commissioner Protopappas - 1

BM

08/03/04  
Item No.: O-8  
CA/arg

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04235**

RESOLUTION APPROVING CONSENT TO ASSIGNMENT OF RIGHTS FROM FOSS ENVIRONMENTAL SERVICES, INC. OF THE CONTRACT FOR PERFORMING EMERGENCY SPILL RESPONSE OR EMERGENCY REPAIRS IN A HAZARDOUS ENVIRONMENT FOR PORT OF OAKLAND FACILITIES, FOR THE PERIOD COMMENCING JULY 1, 2003, AND ENDING JUNE 30, 2004, 2005 OR 2006, OAKLAND, CALIFORNIA, TO NRC ENVIRONMENTAL SERVICES, INC.

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WHEREAS on July 1, 2003, the Board of Port Commissioners ("Board") awarded the contract for Performing Emergency Spill Response or Emergency Repairs in a Hazardous Environment for Port of Oakland Facilities, for the Period Commencing July 1, 2003 and Ending June 30, 2004, 2005 or 2006, Oakland, California, to Foss Environmental Services, Inc. (FOSS), pursuant to Resolution No. 03190; and

WHEREAS effective October 31, 2003, Foss, was acquired as a wholly owned subsidiary of National Response Corporation, and now operates NRC Environmental Services, Inc., (NRC); and

WHEREAS on March 30, 2004 the Port was requested to approve an assignment of this contract to NRC; now, therefore, be it

RESOLVED that the Board hereby approves and authorizes the assignment of the contract for Performing Emergency Spill Response or Emergency Repairs in a Hazardous Environment for Port of Oakland Facilities, for the Period Commencing July 1, 2003 and Ending June 30, 2004, 2005 or 2006, Oakland, California to NRC provided that such consent is granted upon the express condition that NRC shall assume all of the obligations and liabilities of FOSS under said contract, whether the obligations or liabilities arose before or after the effective date of the assignment, that such consent shall not constitute a release or

waiver by the Port of any rights it now has or in the future may have against **FOSS**, or against **National Response Corporation**, the parent company of **NRC**, and provided further that such consent is subject to the approval of the form and substance of said transfer by the Port Attorney; and be it

**FURTHER RESOLVED** that **NRC** must provide all bonds and insurance required by the contract for the benefit of the Port in its new name, in order to satisfy the requirements of the contract; and be it

**FURTHER RESOLVED** that this project supports the Port's on-going operations and will not be used on any capital project site covered by the Maritime and Aviation Project Labor Agreement ("MAPLA") and, therefore, the provisions of the MAPLA will not apply to this work, and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Section 15061(b)(3), as it can be seen with certainty that approval of this Public Works contract does not have the potential to cause a significant effect on the environment, the activity is, therefore, not a project as defined by CEQA and is covered the by general rule that CEQA only applies to projects; and be it

**FURTHER RESOLVED** that at such time that emergency spill response activities might take place, the Port will conduct environmental review of these activities, in compliance with CEQA.

At the regular meeting held on August 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, and President Scates - 6

Noes: None

Absent: Commissioner Protopappas - 1

services including costs of miscellaneous reimbursable expenses at a maximum compensation that shall not exceed, together with all other financial advisory services in said fiscal year, \$250,000 per year; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on August 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, and President Scates - 6

Noes: None

Absent: Commissioner Protopappas - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04236

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH GRIGSBY & ASSOCIATES, INC. ANNUALLY FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT, AND AUTHORIZING THE CHIEF FINANCIAL OFFICER TO HIRE SAID FIRM AND OBTAIN OTHER FINANCIAL ADVISORY SERVICES UP TO A BUDGETED AMOUNT OF \$250,000.

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**RESOLVED** that based upon the information contained in Board Agenda Report Item No. O-9, dated August 3, 2004 ("Agenda Report"), the Board of Port Commissioners ("Board") hereby authorizes the Chief Financial Officer of the Port to obtain financial advisory services not to exceed the budgeted amount of \$250,000 per year, provided that each contract for such services shall be approved by Resolution of the Board; and be it

**FURTHER RESOLVED** that the Board finds and determines that the proposed agreement with **GRIGSBY & ASSOCIATES, INC.** for **financial advisory services** 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 **GRIGSBY & ASSOCIATES, INC.** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board hereby approves and authorizes the execution for and on behalf of the Board of said Agreement for a period of two (2) years with two (2) one year renewal options, upon terms and conditions consistent with the Agenda Sheet and providing that **GRIGSBY AND ASSOCIATES, INC.** shall be compensated for such

**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At the regular meeting held on August 3, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, and President Scates - 6

Noes: None

Absent: Commissioner Protopappas - 1

*WOW*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04237

**RESOLUTION    APPROVING    BUILDING    PERMIT  
REQUESTED BY UNICOLD CORPORATION.**

**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **UNICOLD CORPORATION** ("tenant") for permission to perform certain work at 555 Maritime Street, D516, Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$1,000, said work and the conditions of Port approval being the following:

- 1) Installation of a door and door frame between two offices in the office area of the Transload Warehouse;
- 2) Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Class 1 of Guidelines Section 15301(a); and be it





DM

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04238

**RESOLUTION APPROVING APPOINTMENT OF SPECIAL COUNSEL,  
AND APPROVING INCREASED EXPENDITURE AUTHORITY OF  
SPECIAL COUNSEL AND NECESSARY EXPERTS.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby (a) approves the appointment of **FARELLA, BRAUN & MARTEL**, and (b) authorizes and approves increased expenditure authority of **WULFSBERG, REESE, COLVIG & FIRSTMAN**, as Special Counsels and any necessary experts, part-time, pursuant to the provisions of Section 6.05 of Port Ordinance No. 867, to render expert assistance to the Port Attorney in connection with the Pacific Coast Building Products, Inc. v. Lumberman's Mutual Casualty Company, et al., Alameda No. 2001-024620; (Claims of O.C. Jones & Sons, Inc. arising from construction of the Hanjin Terminal) matter; the compensation of and reimbursement for out-of-pocket expense incurred by said Special Counsels and necessary experts to be made from time to time as approved by the Port Attorney; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At the regular meeting held on September 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Protopappas and President Scates - 7

Noes: None  
Absent: None

*GM*

9/7/04  
MH/ps

*MA*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04239

**RESOLUTION APPROVING SETTLEMENT AND AUTHORIZING  
EXECUTION OF A DEFENSE FUNDING AGREEMENT AND  
PARTIAL SETTLEMENT AGREEMENT BETWEEN THE PORT OF  
OAKLAND AND ZURICH ("AGREEMENT") CONCERNING 1211  
EMBARCADERO.**

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**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the execution for and on behalf of the Board an Agreement with Zurich American Insurance Company as successor in interest to Zurich Insurance Company, U.S. Branch by operation of law, and containing such other reasonably related and consistent terms and conditions as may be negotiated by the Executive Director; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At the regular meeting held on September 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 7

Noes: None  
Absent: None

9/07/04  
A-1  
VON:mj

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04240

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION  
OF A CERTAIN LICENSE AND CONCESSION AGREEMENT  
WITH JETT CARE, INC.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Aviation to execute for and on behalf of the Board that certain License and Concession Agreement between the Port and **JETT CARE, INC.**, for continued access to the South Airport, Oakland, California, to provide aircraft and ground service equipment maintenance and repair services, at the rate proposed and as more fully described in Agenda Report Item A-1, dated September 7, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act and the Port CEQA Guidelines pursuant to Guidelines, Article 19, Section 15300.4 and to Class 1 of Guidelines Section 15301(p); and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on September 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Protopappas and President Scates - 7

Noes: None  
Absent: None

**FURTHER RESOLVED** that the procedure prescribed by applicable laws, regulations and the contract specifications shall be taken for the execution of said contract; provided, however, that said contract shall not be binding or enforceable against the Port unless and until it is approved in writing as to form and legality by the Port Attorney; and be it

**FURTHER RESOLVED** that this project is not for "major maintenance" within the meaning of the Port of Oakland Maritime and Aviation Project Labor Agreement ("MAPLA") and will not be part of the Port's Capital Improvement Program ("CIP") and therefore will not be covered by the provisions of the MAPLA; and be it,

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Section 15301, existing facilities; and be it

**FURTHER RESOLVED** that the other bids received for said contract are hereby rejected and the bid security accompanying said bids shall be returned to the proper persons.

At the regular meeting held on September 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 7

Noes: None

Absent: None

09/07/04  
Item No.: A-2  
CHA/arg

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04241

RESOLUTION AWARDING CONTRACT FOR FURNISHING SERVICE AND MAINTENANCE FOR PASSENGER BOARDING BRIDGES FOR THE PERIOD COMMENCING OCTOBER 1, 2004 AND ENDING JUNE 30, 2005, 2006, 2007 OR 2008, TO C.E. HARRIS, INCORPORATED, A CALIFORNIA CORPORATION DOING BUSINESS AS HARRIS ELECTRIC (LIC. #579807), IN THE AMOUNT OF \$255,378.24, FIXING THE AMOUNT OF BONDS, AND REJECTING ALL OTHER BIDS.

---

**WHEREAS** on April 6, 2004, the Board approved the plans and specifications for this project, and on July 6, 2004, the Board approved the rejection of bids and authorized staff to advertise for re-bids to be received on August 12, 2004; now, therefore be it

**RESOLVED** the Board of Port Commissioners, awards the contract for **Furnishing Service and Maintenance for Passenger Board Bridges for the Period Commencing October 1, 2004 and Ending June 30, 2005, 2006, 2007 or 2008, Oakland, California, to C.E. Harris, Incorporated, a California corporation, doing business as Harris Electric (Lic. #579807) (herein "Contractor"), as the lowest responsible bidder, in accordance with the terms of the bid received August 12, 2004; and be it**

**FURTHER RESOLVED** that a bond for the faithful performance of the work in the amount of \$255,378.24, and a bond to guarantee the payment of all claims for labor and materials furnished and for amounts due under the Unemployment Insurance Code, in the amount of \$255,378.24 shall be provided by the Contractor(s) as prescribed by applicable laws and regulations and the contract specifications; and be it

applicable laws and regulations and the contract specifications; and be it

**FURTHER RESOLVED** that the procedure prescribed by applicable laws, regulations and the contract specifications shall be taken for the execution of said contract; provided, however, that said contract shall not be binding or enforceable against the Port unless and until it is approved in writing as to form and legality by the Port Attorney; and be it

**FURTHER RESOLVED** that this project will be covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA"), and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that the work of this project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Section 15301, Class 1 and Section 15302, Class 2, a Notice of Exemption was filed with the Alameda County Clerk's Office on June 15, 2004; and be it

**FURTHER RESOLVED** that the other bids received for said contract are hereby rejected and the bid security accompanying said bids shall be returned to the proper persons.

At the regular meeting held on September 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Protopappas and President Scates - 7

Noes: None  
Absent: None

09/07/04  
Item No.: A-3  
CHA/arg *CL*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04242**

RESOLUTION RATIFYING AND APPROVING ADDENDUM TO SPECIFICATIONS FOR RECONSTRUCTION OF APRON AT HANGARS 7 AND 8, NORTH FIELD, OAKLAND INTERNATIONAL AIRPORT, A.I.P. 3-06-0170-29; AWARDING CONTRACT TO O.C. JONES & SONS, INC. (LIC. #759729) IN THE AMOUNT OF \$2,473,350; FIXING THE AMOUNT OF BONDS; REJECTING ALL OTHER BIDS AND DIRECTING RETURN OF BID BONDS TO BIDDERS.

---

**WHEREAS** on June 8, 2004, the Board of Port Commissioners ("Board") approved the plans and specifications for this project and authorized staff to advertise for bids to be received on July 14, 2004; and

**RESOLVED** that the Board hereby ratifies, confirms and approves Addendum No. 1 to the plans and specifications and other provisions relative thereto filed with the Board and described in Agenda Report Item No. A-3, dated September 7, 2004 (herein "Agenda Report"), for Reconstruction of Apron at Hangars 7 and 8, North Field, Oakland International Airport A.I.P. 3-06-0170-29, Oakland, California; and be it

**FURTHER RESOLVED** that the Board awards the contract for Reconstruction of Apron at Hangars 7 and 8, North Field, Oakland International Airport A.I.P. 3-06-0170-29, Oakland, California, to O.C. Jones & Sons, Inc. (Lic. #759729), a California corporation (herein "Contractor"), as the lowest responsible bidder, in accordance with the terms of the bids received July 14, 2004; and be it

**FURTHER RESOLVED** that a bond for the faithful performance of the work in the amount of \$2,473,350.00, and a bond to guarantee the payment of all claims for labor and materials furnished and for amounts due under the Unemployment Insurance Code, in the amount of \$2,473,350.00 shall be provided by the Contractor as prescribed by

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04243

**RESOLUTION AUTHORIZING AND APPROVING THE EXTENSION OF  
THE REIMBURSABLE AGREEMENT WITH THE UNITED STATES OF  
AMERICA, DEPARTMENT OF TRANSPORTATION, FEDERAL AVIATION  
ADMINISTRATION ("FAA"), NO. WPM-003-98-K.**

**RESOLVED** that the Board of Port Commissioners hereby authorizes and approves the Executive Director to execute an extension of the Reimbursable Agreement with the FAA, No. WPM-003-98-K ("Extension"), containing the terms and conditions as more fully set forth in Agenda Report Item No. A-4, dated September 7, 2004; and be it

**FURTHER RESOLVED** that the Board finds and determines that the Extension is exempt from and not subject to the California Environmental Quality Act (CEQA) and Port CEQA Guidelines (§15061(b(3))), in that the action is covered by CEQA General Rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment, and it can be seen with certainty that there is no possibility that this action may have a significant effect on the environment; and be it

**FURTHER RESOLVED** that said Extension shall not be binding or enforceable against the Port unless and until it has been approved as to form and legality by the Port Attorney.

At the regular meeting held on September 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 7

Noes: None  
Absent: None



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**FURTHER RESOLVED** that the location and custodian of the documents or other material which constitute the record of proceedings upon which the Board's decision is based respectively are at 530 Water Street, Oakland, California, and Jim McGrath; and be it

**FURTHER RESOLVED** that Board hereby authorizes the Executive Director to comply with the permit conditions, as specified in the Army Corps of Engineer' Permit No. 28740S.

At the regular meeting held on September 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Protopappas and President Scates - 7

Noes: None

Absent: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04244

RESOLUTION CONSIDERING, APPROVING AND ADOPTING A  
MITIGATED NEGATIVE DECLARATION FOR THE OAKLAND  
INTERNATIONAL AIRPORT ("OIA") MATERIALS  
MANAGEMENT PROGRAM ("MMP"), AND THE MITIGATION  
REPORTING AND MONITORING PROGRAM ("MRMP").

---

**RESOLVED** that the Board of Port Commissioners ("Board") hereby certifies that it has independently analyzed, considered and reviewed the Draft Initial Study/Mitigated Negative Declaration ("MND") together with the public comments and the Port's responses thereto; and be it

**FURTHER RESOLVED** that the Board finds that the MND reflects the independent judgment and analysis of the Port as Lead Agency; and be it

**FURTHER RESOLVED** that the Board hereby adopts the MMP and MRMP, as more fully set forth in Agenda Report Item No. A-5, dated September 7, 2004, ("Agenda Report"); and be it

**FURTHER RESOLVED** that on the basis of the whole record before it, the Board's finding that there is no substantial evidence that the project will have a significant effect on the environment, the Board hereby approves and adopts the MND; and be it

**FURTHER RESOLVED** that the Board adopts the mitigation measures identified in the Agenda Report, and as further defined in the MND, as conditions and part of project approval in order to avoid significant effects on the environmental; and be it



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04245

**RESOLUTION AUTHORIZING THE REVERSAL OF THE BILL TO OTHERS ("BTO") UNDER BTO-601096 AND TO CHARGE THE APPLICABLE COSTS TO THE CAPITAL IMPROVEMENT PROGRAM ("CIP") FOR THE CONSTRUCTION OF BERTHS 55-56.**

**RESOLVED** that the Board of Port Commissioners ("Board") does hereby find and determine that it is in the best interest of the Port to authorize the reversal of the billing of \$268,093.06 under BTO-601096 and to charge the applicable costs to the CIP for the construction of Berths 55-56, as further described in Agenda Report Item No. M-1, dated September 7, 2004; and be it

**FURTHER RESOLVED** that the Board finds and determines that the action herein is exempt from and not subject to the California Environmental Quality Act (CEQA) and Port CEQA Guidelines (§15061(b)(3)), in that the action is covered by CEQA General Rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment, and it can be seen with certainty that there is no possibility that this action may have a significant effect on the environment; and be it

**FURTHER RESOLVED** that the location and custodian of the documents or other material which constitute the record of proceedings upon which the Board's decision is based respectively are 530 Water Street, Oakland, California, and the Secretary of the Board.

At the regular meeting held on September 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Protopappas and President Scates - 7

Noes: None  
Absent: None

09/07/04  
Item No.: M-2  
CHA/arg

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04246**

**RESOLUTION APPROVING AND AUTHORIZING INCREASE IN EXPENDITURE LIMITS TO DESIGN CONSULTANT AND CONTRACTOR FOR INSTALLATION OF RADIATION PORTAL MONITORS FOR A TOTAL REIMBURSABLE AMOUNT OF APPROXIMATELY \$5,000,000.**

**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. M-2, dated September 7, 2004 (herein the "Agenda Sheet"), the Board hereby finds and determines that it is in the best interest of the Port to increase the maximum expenditure limit for the design and installation of radiation portal monitors (RPMs) at the exit gates of the Port's marine terminals from \$1,500,000.00 to \$5,000,000.00 for increased consultant, contractor, and staff costs; and be it

**FURTHER RESOLVED** that the provisions of the Port of Oakland Maritime and Aviation Project Labor Agreement (MAPLA) apply to the construction work associated with this project; and be it

**FURTHER RESOLVED** that the Port's Living Wage Ordinance applies; and be it

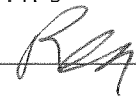
**FURTHER RESOLVED** that the Board previously determined that the physical improvements to be constructed and installed are exempt according to CEQA Guidelines Section 15269©, and that they are also either categorically exempt from CEQA requirements or already covered by other CEQA documentation, as described in the Board report of February 3, 2004. Changes in the project description to reduce impacts on tenants' operations will not result in a significant environmental effect and are consistent with the previous CEQA determinations.

At the regular meeting held on September 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Protopappas and President Scates - 7

Noes: None  
Absent: None



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04247

**RESOLUTION AUTHORIZING THE EXECUTION OF A GRANT  
AGREEMENT BETWEEN THE CITY OF OAKLAND AND THE  
PORT.**

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**RESOLVED** that the Board of Port Commissioners ("Board") hereby accepts and approves the Grant Agreement between the City of Oakland and the Port to provide \$300,000 to the City of Oakland for construction of public access improvements at Union Point Park, as more fully set forth in Agenda Report Item No. M-3, dated September 7, 2004, ("Agenda Report") and the Executive Director is hereby authorized and directed to execute said Grant Agreement; and be it

**FURTHER RESOLVED** that the Board finds and determines that the action herein is exempt from and not subject to the California Environmental Quality Act (CEQA) and Port CEQA Guidelines (§15061(b)(3)), in that the action is covered by CEQA General Rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment, and it can be seen with certainty that there is no possibility that this action may have a significant effect on the environment; and be it

**FURTHER RESOLVED** that the location and custodian of the documents or other material which constitute the record of proceedings upon which the Board's decision is based respectively are 530 Water Street, Oakland, California, and the Secretary of the Board.

**FURTHER RESOLVED** that, and the Secretary is hereby authorized and directed to attest its execution, if deemed necessary; provided, however, that said Grant Agreement shall not be binding or enforceable against the Port unless and until it is approved in writing as to form and legality by the Port Attorney.

At the regular meeting held on September 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 7

Noes: None  
Absent: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04248

**RESOLUTION TERMINATING CERTAIN APPOINTMENT**

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**RESOLVED** that the appointment of Employee No. 368134 to the position of Custodian, be and the same hereby is terminated, effective the close of work day of September 8, 2004, for cause.

At the regular meeting held on September 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Protopappas and President Scates - 6

Noes: Commissioner Kramer – 1  
Absent: None



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04249

**RESOLUTION AMENDING THE PORT OF OAKLAND EQUAL  
OPPORTUNITY POLICY.**

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**RESOLVED** that the Board of Port Commissioners hereby amends Section II.A of the Port's Equal Opportunity Policy to read as follows, as further described in Agenda Report Item No. 0-2, dated September 7, 2004:

"It is the policy of the Port of Oakland to provide equal opportunity in employment for all persons, to prohibit discrimination in employment because of race, color, religion, sex (including gender identity), national origin, ancestry, age (over 40), physical or mental disability, cancer-related medical condition, a known genetic pre-disposition to a disease or disorder, veteran status, marital status, or sexual orientation actual or perceived, and to promote the full realization of equal opportunity for all its employees. Acts of general harassment, including sexual harassment, against any Port employee are strictly prohibited by this policy. This policy extends to all areas of employment and to all relations with employees including recruiting, selection and placement, compensation, promotion and transfer, disciplinary measures, demotions, layoffs and terminations, testing and training, daily working conditions, awards and benefits, and all other terms and conditions of employment.

The importance of fulfilling this policy is to be given top priority consideration in the day-to-day operations of the Port of Oakland. All Port employees are to be made aware that any violation of this policy by an employee shall result in appropriate action by Port management and the Board of Port Commissioners."

At the regular meeting held on September 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 7

Noes: None

Absent: None

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At the regular meeting held on September 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 7

Noes: None

Absent: None



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04250**

**RESOLUTION FINDING AND DETERMINING THAT A PROPOSED FOURTH SUPPLEMENTAL AGREEMENT WITH 2PLUS2 PARTNERS, INC. IN THE AMOUNT OF \$86,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID SUPPLEMENTAL AGREEMENT.**

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**WHEREAS** by Resolution No. 01354, adopted by the Board of Port Commissioners (the "Board") on September 4, 2001, and as amended by the First Supplemental Agreement dated July 16, 2002, the Second Supplemental Agreement dated August 5, 2003, and the Third Supplemental Agreement dated June 22, 2004, the Board authorized an Agreement with **2PLUS2 PARTNERS, INC.**, for continuation of website management and consulting services; and

**WHEREAS**, it is desirable at this time to further amend said Agreement to authorize the Executive Director of the Port to approve additional work and compensation under said Agreement as set forth in Agenda Sheet Item No. O-2, dated August 5, 2003 (herein the "Agenda Sheet"), now, therefore, be it

**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the proposed Fourth Supplemental Agreement with **2PLUS2 PARTNERS, INC.** 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 **2PLUS2 PARTNERS, INC.** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said Second Supplemental Agreement, upon terms and conditions set forth in the Agenda Sheet and providing that **2PLUS2 PARTNERS, INC.** shall be compensated for such services including costs of miscellaneous reimbursable expenses at a maximum compensation that shall not exceed an additional **\$86,000** annually for a period of three (3) years; and be it

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**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04251

RESOLUTION APPROVING THE PORT OF OAKLAND'S  
DISADVANTAGED BUSINESS ENTERPRISE ("DBE") FY 03-04  
OVERALL ANNUAL GOAL REPORT.

---

**RESOLVED** that the Board of Port Commissioners ("Board") does hereby approve the Port's DBE FY-03-04 Overall Annual Goal Report for the Federal Aviation Administration for advertisement and public comment, as further described in Agenda Report Item No. 0-4, dated September 7, 2004.

At the regular meeting held on September 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 7

Noes: None

Absent: None

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said First Supplemental Agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **TREADWELL & ROLLO, INC.** shall be compensated for such services including costs of miscellaneous reimbursable expenses at a maximum compensation that shall not exceed an additional \$190,000; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At the regular meeting held on September 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 7

Noes: None

Absent: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04252

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED FIRST SUPPLEMENTAL AGREEMENT WITH TREADWELL & ROLLO, INC. AT A MAXIMUM COMPENSATION OF \$190,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID SUPPLEMENTAL AGREEMENT.



**WHEREAS** by Resolution No. 02379, adopted by the Board of Port Commissioners (the "Board") on November 5, 2002, the Board authorized an Agreement with **TREADWELL & ROLLO, INC.**, for consulting services with respect to as-needed environmental compliance consulting services; and

**WHEREAS** it is desirable at this time to further amend said Agreement to authorize the Executive Director of the Port to approve additional work under said Agreement as set forth in Agenda Sheet Item No. O-5, dated September 7, 2004 (herein the "Agenda Sheet"), and additional compensation for such work; now, therefore, be it

**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the proposed First Supplemental Agreement with **TREADWELL & ROLLO, INC.** 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 **TREADWELL & ROLLO, INC.** without competitive bidding; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At the regular meeting held on September 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 7

Noes: None  
Absent: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04253

**RESOLUTION APPROVING CONSENT TO ASSIGNMENT  
OF RIGHTS FROM SUBSURFACE CONSULTANTS, INC.  
TO FUGRO WEST, INC. FOR CERTAIN EXISTING  
CONSULTANT AGREEMENTS.**

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**WHEREAS** the Port and **SUBSURFACE CONSULTANTS, INC.** entered into certain consultant agreements as set forth in Agenda Sheet Item No. O-6, dated September 7, 2004 (herein "Agenda Sheet"); and

**WHEREAS SUBSURFACE CONSULTANTS, INC.** has requested the consent of the Board of Port Commissioners to the assignment of said consultant agreements to **FUGRO WEST, INC.** and approve a Second Supplemental Agreement with **FUGRO WEST, INC.** in connection with environmental services regarding the Ninth Avenue Terminal without additional compensation, as more fully set forth in the Agenda Sheet; now, therefore, be it

**RESOLVED** that consent is hereby granted **SUBSURFACE CONSULTANTS, INC.** to assign said consultant agreements to **FUGRO WEST, INC.**, provided that such consent is granted upon the express condition that **FUGRO WEST, INC.** shall assume all of the obligations and liability of **SUBSURFACE CONSULTANTS, INC.**, under said consultant agreements, whether the obligations or liabilities arose before or after the effective date of the assignment and that **SUBSURFACE CONSULTANTS, INC.** is not hereby released from any obligation or liability under said consultant agreements, whether the obligation or liability arose before or after the effective date of the assignment to **FUGRO WEST, INC.**; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of a Second Supplemental Agreement, upon terms and conditions consistent with the Agenda Sheet; and be it

**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At the regular meeting held on September 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 7

Noes: None

Absent: None

*DM*

9/7/04  
S-1  
VON:mj *Don*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04254

**RESOLUTION APPROVING BUILDING PERMIT  
REQUESTED BY THE HERTZ CORPORATION.**

**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **THE HERTZ CORPORATION** ("tenant") for permission to perform certain work located at the Building L613, 8000 Earhart Road, Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$35,000, said work and the conditions of Port approval being the following:

- 1) Installation of an automotive lift and lubrication equipment into an existing unused fueling bay under an existing canopy;
- 2) Related electrical and mechanical work;
- 3) Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Class 1 of Guidelines Section 15301(a); and be it



**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At the regular meeting held on September 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Protopappas and President Scates - 7

Noes: None

Absent: None

*DM*

9/7/04  
S-2  
VON:mj *DM*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04255

**RESOLUTION    APPROVING    BUILDING    PERMIT  
REQUESTED    BY    AIR    TERMINAL    SERVICES,  
INCORPORATED.**

**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **AIR TERMINAL SERVICES, INCORPORATED**, ("tenant") for permission to perform certain work at Terminal 1 (M102), 1 Airport Drive, Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$12,000, said work and the conditions of Port approval being the following:

- 1)    Remodeling of counters;
- 2)    Installation of new equipment;
- 3)    Repair of tile floors in the customer service area;
- 4)    Related electrical and mechanical work;
- 5)    Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Class 1 of Guidelines Section 15301(a); and be it

**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At the regular meeting held on September 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 7

Noes: None  
Absent: None

*DM*

9/7/04  
S-3  
VON:mj  
*von*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04256

**RESOLUTION APPROVING BUILDING PERMIT  
REQUESTED BY SOUTHWEST AIRLINES CO.**

**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **SOUTHWEST AIRLINES CO.**, ("tenant") for permission to perform certain work at Terminals 1 and 2 (M103 and M130), 1 Airport Drive, Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$30,000, said work and the conditions of Port approval being the following:

- 1) Installation, relocation and consolidation of boarding gate podiums;
- 2) Related electrical and data cabling work;
- 3) Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Class 1 of Guidelines Section 15301(a); and be it

**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At the regular meeting held on September 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 7

Noes: None  
Absent: None

9/7/04  
S-4  
VON:mj

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04257

**RESOLUTION APPROVING BUILDING PERMIT  
REQUESTED BY CORINTHIAN COLLEGES, INC.**

**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **CORINTHIAN COLLEGES, INC.** ("tenant") for permission to perform certain work at Building L105, 9636 Earhart Road, Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$15,000, said work and the conditions of Port approval being the following:

- 1) Installation of three tenant signs;
- 2) Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Class 11 of Guidelines Section 15311; and be it

**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At the regular meeting held on September 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 7

Noes: None

Absent: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04258

**RESOLUTION APPROVING BUILDING PERMIT  
REQUESTED BY TOTAL TERMINALS INTERNATIONAL,  
LLC.**

**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **TOTAL TERMINALS INTERNATIONAL, LLC**, ("tenant") for permission to perform certain work at Hanjin Terminal, 2505 Middle Harbor Road, Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$18,000, said work and the conditions of Port approval being the following:

- 1) Installation of an additional air conditioning unit;
- 2) Related electrical and mechanical work;
- 3) Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Class 1 of Guidelines Section 15301(a); and be it



**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At the regular meeting held on September 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 7

Noes: None

Absent: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND  
RESOLUTION NO. 04259**

**RESOLUTION APPROVING BUILDING PERMIT  
REQUESTED BY BUSINESS JET CENTER-OAKLAND,  
L.P.**

**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **BUSINESS JET CENTER-OAKLAND, L.P.**, ("tenant") for permission to perform certain work at Building L142, 9351 Earhart Road, Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$25,000, said work and the conditions of Port approval being the following:

- 1) Installation of four signs at the tenant's newly remodeled location at North Field;
- 2) Related electrical work;
- 3) Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Class 11 of Guidelines Section 15311; and be it

**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At the regular meeting held on September 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 7

Noes: None  
Absent: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04260

**RESOLUTION APPROVING BUILDING PERMIT  
REQUESTED BY WESTERN AEROSPACE MUSEUM.**

**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **WESTERN AEROSPACE MUSEUM** ("tenant") for permission to perform certain work at Building L623, 8260 Boeing Street, Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$5,000, said work and the conditions of Port approval being the following:

- 1) Installation of a new 6' x 8' free-standing sign to replace the existing tenant sign at North Field;
- 2) Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Class 11 of Guidelines Section 15311; and be it

*VON*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04261

**RESOLUTION APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR  
TO EXECUTE A SETTLEMENT AGREEMENT WITH JOHNNY MILLER  
DESIGN, LTD.**

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**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the execution for and on behalf of the Board a Settlement Agreement with **JOHNNY MILLER DESIGN, LTD.**, for design of the golf course constructed on the site of the old Lew S. Galbraith golf course located next to the Oakland Airport and containing such other reasonably related and consistent terms and conditions as may be negotiated by the Executive Director; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At the regular meeting held on September 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 7

Noes: None  
Absent: None

CHA

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04262

**RESOLUTION APPROVING AND AUTHORIZING NEGOTIATION  
OF A SETTLEMENT WITH O.C. JONES & SONS, INC., AND  
APPROVING APPOINTMENT OF SPECIAL COUNSEL.**

**RESOLVED** that the Board of Port Commissioners ("Port") hereby approves and authorizes the Port Attorney to negotiate a settlement with O.C. Jones, not to exceed \$100,000 in exchange for a full waiver and release; and be it

**FURTHER RESOLVED** that the Board approves and authorizes the Executive Director to execute any resulting settlement agreement; and be it

**FURTHER RESOLVED** that the Board hereby approves and authorizes the appointment of **FARELLA BRAUN & MARTEL**, part-time, pursuant to provisions of Section 6.05 of Port Ordinance NO. 867, to render expert assistance to the Port Attorney in connection with *Pacific Coast Building Products, Inc. v. Lumbermen's Mutual Casualty Company, et al.*, (Alameda No. 2001-024620); as discussed in the confidential memorandum dated October 1, 2004, the compensation of and reimbursement for out-of-pocket expenses incurred by said Special Counsel to be made from time to time as approved by the Port Attorney; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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 the other contracting parties, there shall be no valid or effective agreement.

At the regular meeting held on October 5, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kiang - 1

*9/28*

OCTOBER 5, 2004  
CLOSED SESSION  
CHA/LST

*CU*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04263

**RESOLUTION APPROVING APPOINTMENT OF SPECIAL  
COUNSEL.**

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**RESOLVED** that the Board of Port Commissioners hereby approves the appointment of **FARELLA BRAUN & MARTEL**, as Special Counsel, part-time, pursuant to the provisions of Section 6.05 of Port Ordinance No. 867, to render expert assistance to the Port Attorney in connection with the matter discussed in the confidential memorandum dated October 1, 2004, the compensation of and reimbursement for out-of-pocket expenses incurred by said Special Counsel to be made from time to time as approved by the Port Attorney.

At the regular meeting held on October 5, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kiang - 1



*DL*

October 5, 2004  
CLOSED SESSION  
CHA:LST *ces*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04264

**RESOLUTION APPROVING APPOINTMENT OF SPECIAL  
COUNSEL AND NECESSARY EXPERT.**

\_\_\_\_\_

**RESOLVED** that the Board of Port Commissioners hereby approves the appointment of **BELL, ROSENBERG & HUGHES**, as Special Counsel, part-time, and **THE COVELLO GROUP**, pursuant to the provisions of Section 6.05 of Port Ordinance No. 867, to render expert assistance to the Port Attorney in connection with the matter described in the confidential memorandum dated October 1, 2004; the compensation of and reimbursement for out-of-pocket expenses incurred by said Special Counsel and Consultant to be made from time to time as approved by the Port Attorney.

At the regular meeting held on October 5, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kiang - 1

*VON*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04265

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION  
OF A CERTAIN LICENSE AND CONCESSION AGREEMENT  
WITH UNITED AIR LINES, INC.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Aviation to execute for and on behalf of the Board that certain License and Concession Agreement between the Port and **UNITED AIR LINES, INC.**, for approximately ten square feet in Building M911, Oakland, California, for use of an unstaffed Passur passive radar system facility, at the rate proposed and as more fully described in Agenda Report Item A-1, dated October 5, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act and the Port CEQA Guidelines pursuant to Class 1 of Guidelines Section 15301(p); and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on October 5, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kiang - 1



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04266

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION  
OF A CERTAIN LICENSE AND CONCESSION AGREEMENT  
WITH UNITED PARCEL SERVICE, INC.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Aviation to execute for and on behalf of the Board that certain License and Concession Agreement between the Port and **UNITED PARCEL SERVICE, INC.**, for approximately 16.05 acres including 48,910 square feet in Port-owned Cargo Building M112; approximately 2.21 acres of aircraft apron, approximately 10.33 acres of paving used for aircraft and employee parking and approximately 2.39 acres within the planned reconfigured Stadium to be used by UPS for two weeks during its holiday peak period, at the rate proposed and as more fully described in Agenda Report Item A-2, dated October 5, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act and the Port CEQA Guidelines pursuant to Guidelines, Article 19, Section 15300.4 and to Class 1 of Guidelines Section 15301(p); and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on October 5, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kiang - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04267

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION  
OF CERTAIN AGREEMENT FOR AN EXTENDED RIGHT-OF-  
ENTRY AND INDEMNITY AGREEMENT WITH SAN FRANCISCO  
BAY AREA RAPID TRANSIT DISTRICT (BART).**

---

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Aviation to execute for and on behalf of the Board an extended Right-of-Entry and Indemnity Agreement between the Port and **SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT (BART)**, (Conduct geotechnical and environmental investigations in connection with its proposed construction of the **BART-Airport Connector project**), as described in Agenda Sheet Item No. A-3, dated October 5, 2004; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on October 5, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kiana - 1



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04268

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION  
OF A CERTAIN LICENSE AND CONCESSION AGREEMENT  
WITH HUNTLEIGH USA CORPORATION.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Aviation to execute for and on behalf of the Board that certain License and Concession Agreement between the Port and **HUNTLEIGH USA CORPORATION**, for continued access to the South Airport, Oakland, California, to provide skycap, wheelchair, baggage handling and security checkpoint ticket reading services, at the rate proposed and as more fully described in Agenda Report Item A-5, dated October 5, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act and the Port CEQA Guidelines pursuant to Guidelines, Article 19, Section 15300.4 and to Class 1 of Guidelines Section 15301(p); and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on October 5, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kiang - 1

*VON*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04269

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION  
OF A CERTAIN LICENSE AND CONCESSION AGREEMENT  
WITH PACIFIC WESTERN AVIATION OAKLAND, L.L.C.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Aviation to execute for and on behalf of the Board that certain License and Concession Agreement between the Port and **PACIFIC WESTERN AVIATION OAKLAND, L.L.C.**, for continued access to the South Airport, Oakland, California, to provide passenger, baggage, ground and cargo handling services and cabin cleaning services, at the rate proposed and as more fully described in Agenda Report Item A-6, dated October 5, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act and the Port CEQA Guidelines pursuant to Guidelines, Article 19, Section 15300.4 and to Class 1 of Guidelines Section 15301(p); and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on October 5, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kiang - 1

NON

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04270

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION  
OF A CERTAIN LICENSE AND CONCESSION AGREEMENT  
WITH OAKLAND FLYERS, LLC.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Aviation to execute for and on behalf of the Board that certain License and Concession Agreement between the Port and **OAKLAND FLYERS, LLC** for occupancy of approximately 4,551 square feet of office and shop space in Port Building L-606, North Airport, Oakland, California, at the rate proposed and as more fully described in Agenda Report Item A-7, dated October 5, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act and the Port CEQA Guidelines pursuant to Guidelines, Article 19, Section 15300.4 and to Class 1 of Guidelines Section 15301(p); and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on October 5, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kiang - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04271

RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF  
A FIRST AMENDMENT TO AGREEMENT FOR OPERATION AND  
MAINTENANCE OF AVIATION FUEL FACILITIES AT OAKLAND  
INTERNATIONAL AIRPORT WITH OAKLAND FUEL FACILITIES  
CORPORATION ("OFFC").

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**WHEREAS** by Resolution No. 96175, adopted by the Board of Port Commissioners ("Board") on May 21, 1996, the Board authorized an Operation and Maintenance Agreement of Aviation Fuel Facilities at Metropolitan Oakland International Airport with OFFC ("Agreement"); now, therefore, be it

**RESOLVED** that the Board hereby approves and authorizes the execution for and on behalf of the Board of a First Amendment to the Agreement, at a monthly payment of \$624,777, as more fully set forth in Agenda Report Item A-8 dated October 5, 2004, and be it

**FURTHER RESOLVED** that the Board finds and determines that the action herein is exempt from and not subject to the California Environmental Quality Act (CEQA) and Port CEQA Guidelines Article 19, Section 15301(p) which exempts renewals, extensions or amendments to leases or license and concession agreements where the premises or licensed activity was previously leased or licensed to the same or another person, and involving negligible or no expansion of use beyond that previously existing; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of agreement in accordance with the terms of this resolution. Unless and until a



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

separate written agreement 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 other contracting party or parties, there shall be no valid or effective agreement.

At the regular meeting held on October 5, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kiang - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04272

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH JACOBS CONSULTANCY INC. AT A MAXIMUM COMPENSATION OF \$100,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.

**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. **A-9**, dated **October 5, 2004** (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with **JACOBS CONSULTANCY INC., DOING BUSINESS AS LEIGH FISHER ASSOCIATES** for **concession planning and consulting services for both the food, beverage and retail concession program and the in-terminal advertising program at the Oakland International Airport** 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 **JACOBS CONSULTANCY INC., DOING BUSINESS AS LEIGH FISHER ASSOCIATES** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **JACOBS CONSULTANCY INC., DOING BUSINESS AS LEIGH FISHER ASSOCIATES** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed **\$100,000**; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on October 5, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kiang - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04273

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH URS CORPORATION AT A MAXIMUM COMPENSATION OF \$300,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.

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**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. **A-10**, dated **October 5, 2004** (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with **URS CORPORATION** for **Aviation planning and preliminary engineering consulting services** 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 **URS CORPORATION** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **URS CORPORATION** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed **\$300,000**, unless additional work up to an additional amount of **\$15,000** is approved in writing by the Executive Director; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on October 5, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kiang - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04274

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH E-AGENCY, INC. AT A MAXIMUM COMPENSATION OF \$60,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.

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RESOLVED that based upon the information contained in Board Agenda Sheet Item No. A-11, dated October 5, 2004 (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with E-AGENCY, INC. for marketing support services for FY 04-05 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 E-AGENCY, INC. without competitive bidding; and be it

FURTHER RESOLVED that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that E-AGENCY, INC. shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed \$60,000 (including payments of \$15,000 made under the Port's Purchase Order); and be it

FURTHER RESOLVED that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on October 5, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, and President Scates - 5

Noes: None

Recused: Commissioner Protopappas - 1

Absent: Commissioner Kiang - 1



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04275

RESOLUTION RATIFYING AND APPROVING ADDENDA TO SPECIFICATIONS FOR CONSTRUCTION OF IN-LINE EXPLOSIVES DETECTION SYSTEM, TERMINAL 2, SOUTH FIELD, OAKLAND INTERNATIONAL AIRPORT, A.I.P. 3-06-0170-33; AWARDING CONTRACT TO HENSEL PHELPS CONSTRUCTION CO. (LIC. #519252) IN THE AMOUNT OF \$8,290,002.58; FIXING THE AMOUNT OF BONDS; REJECTING ALL OTHER BIDS AND DIRECTING RETURN OF BID BONDS TO BIDDERS.

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**WHEREAS** on July 6, 2004, the Board of Port Commissioners ("Board") approved the plans and specifications for this project and authorized staff to advertise for bids to be received on August 18, 2004; and

**RESOLVED** that the Board hereby ratifies, confirms and approves Addenda No. 1 and No. 2 to the plans and specifications and other provisions relative thereto filed with the Board and described in Agenda Report Item No. A-12, dated October 5, 2004 (herein "Agenda Report"), for Construction of In-Line Explosives Detection System, Terminal 2, South Field, Oakland International Airport A.I.P. 3-06-0170-33, Oakland, California; and be it

**FURTHER RESOLVED** that the Board awards the contract for Construction of In-Line Explosives Detection System, Terminal 2, South Field, Oakland International Airport A.I.P. 3-06-0170-33, Oakland, California, to Hensel Phelps Construction Co. (Lic. #519252), a Delaware corporation (herein "Contractor"), as the lowest responsible bidder, in accordance with the terms of the bids received August 25, 2004; and be it

**FURTHER RESOLVED** that a bond for the faithful performance of the work in the amount of \$8,290,002.58, and a bond to guarantee the payment of all claims for labor and materials furnished and for amounts

due under the Unemployment Insurance Code, in the amount of \$8,290,002.58 shall be provided by the Contractor as prescribed by applicable laws and regulations and the contract specifications; and be it

**FURTHER RESOLVED** that the procedure prescribed by applicable laws, regulations and the contract specifications shall be taken for the execution of said contract; provided, however, that said contract shall not be binding or enforceable against the Port unless and until it is approved in writing as to form and legality by the Port Attorney; and be it

**FURTHER RESOLVED** that this project will be covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA"), and be it

**FURTHER RESOLVED** that the Board, in May 2002, approved and issued Resolution No. 02125 for the project to install baggage-screening equipment as part of the Terminal 2 Building Improvements for Baggage and Security Checkpoint Areas project, a Notice of Exemption was filed with the Alameda County Clerk's Office on June 12, 2002, pursuant to the California Environmental Quality Act (CEQA); and be it

**FURTHER RESOLVED** that the other bids received for said contract are hereby rejected and the bid security accompanying said bids shall be returned to the proper persons.

At the regular meeting held on October 5, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kiang - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04276

RESOLUTION GRANTING AUTHORIZATION TO INSTALLATION OF TWO SOLID-STATE 400 HERTZ CONVERTER UNITS AT BUILDING M-103, SOUTH FIELD, OAKLAND INTERNATIONAL AIRPORT, OAKLAND, CALIFORNIA, IN THE SMALL BUSINESS PROGRAM, FINDING AND DETERMINING THAT IT IS IN THE BEST INTEREST OF THE PORT TO CONTRACT FOR SUCH WORK WITHOUT LOWEST-SEALED BID PROCEDURES; AND AUTHORIZING EXECUTION OF A CONTRACT FOR SUCH WORK BASED ON RECEIPT OF INFORMAL PROPOSALS.

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**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the development and use provided for in the plans and specifications and the subsequent use of the development approved by this resolution are in conformity with the General Plan of the City; and be it

**RESOLVED** that the Director of Engineering or his designee is authorized to approve the plans and specifications for said projects in advance of construction, pursuant to Government Code Section 830.6; and be it

**FURTHER RESOLVED** that based upon the information contained in Board Agenda Report Item No. A-13, dated October 5, 2004 (herein the "Agenda Report"), the Board of Port Commissioners ("Board") hereby finds and determines that the Port's Small Business Utilization Program encourages small contractors to develop the capacity to perform public works contracts on a competitive basis, thereby increasing the pool of competitive contractors for future Port contracts; and therefore it is in the best interest of the Port to accomplish to accomplish the **Installation of Two Solid-State 400 Hertz Converter Units at Building M-103, South Field, Oakland International Airport, Oakland, California,** without lowest-sealed bid procedures and that said lowest-sealed bid procedures are hereby waived; and be it

FURTHER RESOLVED that the Board authorizes that the Installation of Two Solid-State 400 Hertz Converter Units at Building M-103, South Field, Oakland International Airport, Oakland, California, be included in the Small Business Program; and be it;

FURTHER RESOLVED that the Board hereby approves and authorizes the execution for and on behalf of the Board of a contract with a local small contractor, for Installation of Two Solid-State 400 Hertz Converter Units at Building M-103, South Field, Oakland International Airport, Oakland, California, based upon the receipt of informal proposals, provided, that if the Executive Director determines that no acceptable proposal has been received from a local small contractor then said contract may be made with any qualified contractor based upon the receipt of informal proposals; and be it

FURTHER RESOLVED that this project will be covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA"), however, if one of the contracts is awarded to a local small contractor, that contract will be exempt from the provisions of the MAPLA if awarded to a local small contractor that is eligible for exemption under the program established by MAPLA's Appendix "G"-Letter of Understanding re: Small Business Utilization Program; and be it

FURTHER RESOLVED that a bond for the faithful performance of the work, and a bond to guarantee the payment of all claims for labor and materials furnished and for amounts due under the Unemployment Insurance Code shall be provided by the Contractor as prescribed by the applicable laws and regulations and the contract specifications; and be it

FURTHER RESOLVED that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Sections 15301, Existing Facilities, and 15311 (Accessory Structures); and be it

FURTHER RESOLVED that pursuant to Port Ordinance 1606, Section 22, the Board finds and determines it to be in the Port's best interest to delegate to the Executive Director, and hereby delegates to the Executive Director, the authority to finally resolve bid protests in connection with this project; and be it

FURTHER RESOLVED that 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. This resolution approves and authorizes the execution of a grant agreement in accordance with the terms of this resolution. Unless and until a separate written grant agreement 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 other contracting party, there shall be no valid or effective grant agreement.

At the regular meeting held on October 5, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kiang - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04277

RESOLUTION FINDING AND DETERMINING THAT IT IS IN THE BEST INTEREST OF THE PORT TO CONTRACT FOR CONSTRUCTION OF AWNING/CANOPY OVER OUTBOUND BAGGAGE MAKEUP RAMP, BUILDING M-101, OAKLAND INTERNATIONAL AIRPORT, WITHOUT LOWEST-SEALED BID PROCEDURES; AND AUTHORIZING EXECUTION OF A CONTRACT FOR SUCH WORK BASED ON RECEIPT OF INFORMAL PROPOSALS.

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**RESOLVED**, that the Board of Port Commissioners ("Board") hereby finds and determines that the development and use provided for in the plans and specifications and the subsequent use of the development approved by this resolution are in conformity with the General Plan of the City; and be it

**FURTHER RESOLVED** that the Director of Engineering or his designee is authorized to approve the plans and specifications for said projects in advance of construction, pursuant to Government Code Section 830.6; and be it

**FURTHER RESOLVED** based upon the information contained in Board Agenda Report No. A-14, dated October 5, 2004 (herein "Agenda Report"), that the Board of Port Commissioners hereby finds and determines that it is in the best interests of the Port to contract for **Construction of Awing/Canopy Over Outbound Baggage Makeup Ramp, Building M-101, Oakland International Airport, Oakland, California**, without lowest-sealed bid procedures and that said lowest-sealed bid procedures are hereby waived; and be it

**FURTHER RESOLVED** that the Board hereby approves and authorizes the Executive Director to negotiate and execute a contract change order with the lowest responsible proposer, based upon the receipt of informal proposals from contractors currently under contract with the Port for other Port work, for work for **Construction of Awing/Canopy Over Outbound Baggage Makeup Ramp, Building M-101, Oakland**

**International Airport, Oakland, California**, upon terms and conditions consistent with said Agenda Sheet, at a total cost of approximately \$250,000, provided, that if the Executive Director determines that no acceptable proposal has been received from a contractor currently under contract with the port, then said contract may be made with any qualified contractor based upon the receipt of informal proposals; and be it;

**FURTHER RESOLVED** that the work performed under this change order will be covered by the provisions of the Port of Oakland Maritime and Aviation Project Labor Agreement ("MAPLA"); and be it

**FURTHER RESOLVED** that a bond for the faithful performance of the work, and a bond to guarantee the payment of all claims for labor and materials furnished and for amounts due under the Unemployment Insurance Code shall be provided by the Contractor as prescribed by the applicable laws and regulations and the contract specifications; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Section 15311, Class 11. A Notice of Exemption will be filed with the County after the Board approves the project; and be it

**FURTHER RESOLVED** that pursuant to Port Ordinance 1606, Section 22, the Board finds and determines it to be in the Port's best interest to delegate to the Executive Director, and hereby delegates to the Executive Director, the authority to finally resolve bid protests in connection with this project; and be it

**FURTHER RESOLVED** that this resolution is not evidence of and does not create or constitute (a) a contract(s), 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. This resolution approves and authorizes the execution of a contract change order or in accordance with the terms of this resolution. Unless and until a separate written contract change order 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 change order.

At the regular meeting held on October 5, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kiang - 1

**BOARD OF PORT COMMISSIONERS**  
**RESOLUTION NO. 04278**  
**CITY OF OAKLAND**

RESOLUTION APPROVING NEGOTIATION AND EXECUTION OF CHANGE ORDERS TO CONTRACT WITH MESA ENERGY SYSTEMS, INC. (Lic. #611215) FOR UPGRADE OF ENERGY MANAGEMENT CONTROL SYSTEM AT TERMINALS I AND II SOUTH FIELD, OAKLAND INTERNATIONAL AIRPORT.

**RESOLVED** that pursuant to Port Ordinance 1606, Section 5(i)(3)(iv), the Board of Port Commissioners hereby approves and authorizes the Executive Director to negotiate and execute additive change orders with **Mesa Energy Systems, Inc. (Lic. #611215)**, under the contract for **Upgrade of Energy Management Control System at Terminals I and II, South Field, Oakland International Airport, Oakland, California**, consisting of 1) replacement of chilled water control valves, in the amount of \$91,000; 2) the addition of four air-handler (JACE) controllers, in the amount of \$49,304; and 3) replacing existing variable-air-volume boxes (VAVs) and reheat valves, and installing fans electrical interlock, in the amount of \$51,904; for a total of \$192,208, consistent with Board Agenda Report Item A-15, dated October 5, 2004, provided, however, that said change order(s) shall be in a form prepared by the Port Attorney and shall not be effective unless and until approved in writing by the Port Attorney; and be it

**FURTHER RESOLVED** that the Board finds that it is in the Port's best interest to grant to the Executive Director the authority to issue additional change orders, not to exceed the aggregate total of \$70,000.00 to the contract for **Upgrade of Energy Management Control System at Terminals I and II, South Field, Oakland International,**

California, Oakland, California, in accordance with Port Ordinance 1606, Section 5(i)(3)(ii); and be it

FURTHER RESOLVED that this project will not be covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA").

At the regular meeting held on October 5, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kiang - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04279

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH HNTB CORPORATION AT A MAXIMUM COMPENSATION OF \$825,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.

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**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. **A-16**, dated **October 5, 2004** (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with **HNTB CORPORATION** for **engineering services in connection with the reconstruction of aprons in the vicinity of Hangars 1 through 5 at the North Field, Oakland International Airport** 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 **HNTB CORPORATION** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **HNTB CORPORATION** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed **\$825,000**; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At the regular meeting held on October 5, 2004


Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kiang - 1

gmk

10/05/04  
Item No.: M-1  
CHA/arg 

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04280**

RESOLUTION FINDING AND DETERMINING THAT IT IS IN THE BEST INTEREST OF THE PORT TO CONTRACT FOR RIGGING AND REPAIR OF PORT OF OAKLAND CRANES FOR PORT OF OAKLAND FACILITIES FOR THE PERIOD COMMENCING JANUARY 1, 2005, AND ENDING DECEMBER 31, 2005, 2006 OR 2007, WITHOUT LOWEST-SEALED BID PROCEDURES AND AUTHORIZING EXECUTION OF CONTRACTS FOR SUCH WORK BASED ON RECEIPT OF INFORMAL PROPOSALS.

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**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the development and use provided for in the plans and specifications approved by this resolution are in conformity with the General Plan of the City; and be it

**FURTHER RESOLVED** that the Director of Engineering or his designee is authorized to approve the plans and specifications for said projects in advance of construction, pursuant to Government Code Section 830.6; and be it

**FURTHER RESOLVED** that based upon the information contained in Board Agenda Report Item No. M-1, dated October 5, 2004 (herein the "Agenda Report"), the Board hereby finds and determines that it is in the best interest of the Port to accomplish the **Rigging and Repair of Port of Oakland Cranes for the Period Commencing January 1, 2005, and Ending December 31, 2005, 2006 or 2007, Oakland, California** without lowest-sealed bid procedures and that said lowest-sealed bid procedures are hereby waived; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of four contracts for **Rigging and Repair of Port of Oakland Cranes for the Period Commencing January 1, 2005, and Ending December 31, 2005, 2006 or 2007, Oakland, California**, based upon the receipt of informal proposals; and be it



**FURTHER RESOLVED** that this project will be not covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA"), as the work of this project is not for "major maintenance" within the meaning of the MAPLA and is not part of the Port's Capital Improvement Program (CIP; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines, pursuant to Section 15301, Class 1 (Subsection d, f - Existing Facilities; and be it

**FURTHER RESOLVED** that, pursuant to Port Ordinance 1606, Section 22, the Board finds and determines it to be in the Port's best interest to delegate to the Executive Director, and hereby delegates to the Executive Director, the authority to finally resolve bid protests in connection with this project; and be it

**FURTHER RESOLVED** that this resolution is not evidence of and does not create or constitute (a) a contract(s), 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. 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 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(s).

At the regular meeting held on October 5, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kiang - 1

*JK*

10/05/04  
Item No. M-2  
CHA/arg  
*al*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04281**

**RESOLUTION APPROVING NEGOTIATION AND EXECUTION OF  
CHANGE ORDERS TO CONTRACT WITH MANSON CONSTRUCTION  
CO. (LIC. #220319) FOR THE BERTH 22 WHARF  
REPLACEMENT PROJECT FOR THE COSTS ASSOCIATED WITH  
THE REMOVAL OF QUAY WALLS.**

**RESOLVED** that pursuant to Port Ordinance 1606, Section 5(i)(3)(iv), the Board of Port Commissioners hereby approves and authorizes the Executive Director to negotiate and execute additive change orders with **Manson Construction Co. (Lic. #220319)**, under the contract for **Berth 22 Wharf Replacement, Outer Harbor, Oakland, California**, consisting of mitigation of the adverse impacts that resulted from the removal and disposal of quay walls not shown on the project plans that were encountered during the dredging phase of the Berth 22 Wharf Replacement Project, consistent with Board Agenda Report Item M-2, dated October 5, 2004, provided, however, that said change order(s) shall be in a form prepared by the Port Attorney and shall not be effective unless and until approved in writing by the Port Attorney; and be it

**FURTHER RESOLVED** that this project will be covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA").

At the regular meeting held on October 5, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kiang - 1

*DLN*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04282

RESOLUTION 1) APPROVING AND AUTHORIZING EXECUTION OF AN ASSIGNMENT AGREEMENT WITH THE OAKLAND BASE REUSE AUTHORITY ("OBRA") AND THE WESTERN AREA POWER ADMINISTRATION ("WESTERN") TO ACCEPT OBRA'S ASSIGNMENT OF ITS WESTERN BASE RESOURCE CONTRACT FOR OAKLAND ARMY BASE ("OAB") TO THE PORT, AND A RESOURCE MANAGEMENT SERVICE AGREEMENT BETWEEN THE PORT AND OBRA TO MANAGE ALL OF OBRA'S ELECTRIC RESOURCES FOR THE OAB AND TO REIMBURSE THE PORT FOR ITS APPLICABLE COSTS; 2) FINDING AND DETERMINING THAT PROPOSED AGREEMENTS WITH ELECTRIC POWER WHOLESALERS TO PURCHASE SUPPLEMENTAL WHOLESALE ELECTRIC POWER FOR OAB AND RELATED PROPOSED AGREEMENTS REGARDING THE COMBINATION OF THE OAB WESTERN POWER WITH THE PORT'S OTHER WESTERN POWER AND ITS ASSIGNMENT TO THE NORTHERN CALIFORNIA POWER AGENCY ("NCPA") FOR THE POOLING, TRANSMISSION, SCHEDULING, COORDINATION AND DELIVERY OF SUCH ELECTRIC POWER, CONSTITUTE AGREEMENTS FOR PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE AND/OR THAT IT IS IN THE BEST INTEREST OF THE PORT TO ENTER INTO SUCH CONTRACTS WITHOUT COMPETITIVE BIDDING, WAIVING COMPETITIVE BIDDING AND APPROVING AND AUTHORIZING EXECUTION OF SUCH AGREEMENTS; AND 3) APPROVING APPOINTMENT OF SPECIAL COUNSEL TO PROVIDE LEGAL SERVICES IN CONNECTION WITH THE FOREGOING.

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**RESOLVED** that based upon the information contained in Board Agenda Report M-3 dated October 5, 2004 ("Agenda Report"), the Board of Port Commissioners ("Board") hereby finds and determines that the agreements described in the third FURTHER RESOLVED provisions below constitute agreements for professional, technical and specialized services that are temporary in nature, and/or that it is in the best interest of the Port to enter into such agreements without competitive bidding; and be it

**FURTHER RESOLVED** that the Board hereby approves and authorizes the Executive Director for and on behalf of the Board to enter into a resource management services agreement between the Port and OBRA to manage the Western power of OAB and purchase and manage supplemental power for OAB, in accordance and consistent with the Agenda Report; and be it

**FURTHER RESOLVED** that the Board hereby approves and authorizes the Executive Director for and on behalf of the Board to enter into agreements with electric power wholesalers without competitive bidding for the purchase of electric power for delivery to OAB for the period between January 1, 2005 and December 31, 2010, inclusive, at a presently budgeted cost of approximately \$165,000.00 per year; and be it

**FURTHER RESOLVED** that the Board hereby approves and authorizes the Executive Director for and on behalf of the Board to enter into agreements with appropriate entities without competitive bidding, for the transmission, scheduling, coordination and pooling of such purchased electric power, and for other related ancillary services, at a presently budgeted cost of approximately \$260,000 per year; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project is categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the State and Port CEQA Guidelines Sections 15061(a)(3) and 15301; and be it

**FURTHER RESOLVED** that the Board hereby approves the appointment of McGuireWoods LLP, pursuant to the provisions of Section 6.05 of Port Ordinance No. 867, to render expert assistance to the Port Attorney in connection with the proposed assignments of Western power and the pooling, transmitting, scheduling and coordination of delivery of power to OAB, the compensation of and reimbursement for out-of-pocket expenses incurred by said Special Counsel to be made from time to time as approved by the Port Attorney.

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of agreements in accordance with the terms of this resolution. Unless and until separate written agreements are duly executed on behalf of the Board as authorized by this resolution, are signed as approved as to form and legality by the Port Attorney, and are delivered to other contracting party, there shall be no valid or effective agreements.

At the regular meeting held on October 5, 2004

Passed by the following vote:

Ayes: Commissioners Myers-Johnson, Batarse, Katzoff,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kiang - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04283

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED FIRST SUPPLEMENTAL AGREEMENT WITH SM CONSULTING AT A MAXIMUM COMPENSATION OF \$50,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID SUPPLEMENTAL AGREEMENT.

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**WHEREAS** by Resolution No. 01316, adopted by the Board of Port Commissioners (the "Board") on August 7, 2001, the Board authorized an Agreement with **SM CONSULTING**, for human resources consulting services; and

**WHEREAS** it is desirable at this time to further amend said Agreement to authorize the Executive Director of the Port to approve additional work under said Agreement as set forth in Agenda Sheet Item No. O-6, dated October 5, 2004 (herein the "Agenda Sheet"), and additional compensation for such work; now, therefore, be it

**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the proposed First Supplemental Agreement with **SM CONSULTING** 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 **SM CONSULTING** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said First Supplemental Agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **SM CONSULTING** shall be compensated for such

services including costs of miscellaneous reimbursable expenses at a maximum compensation that shall not exceed an additional \$50,000; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At the regular meeting held on October 5, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kiang - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04284

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED FIRST SUPPLEMENTAL AGREEMENT WITH NOR-CAL, FDC AT A MAXIMUM COMPENSATION OF \$66,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID SUPPLEMENTAL AGREEMENT.

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**WHEREAS** by Resolution No. 03261, adopted by the Board of Port Commissioners (the "Board") on September 2, 2003, the Board authorized an Agreement with **NOR-CAL, FDC**, for consulting services with respect to administering the Port of Oakland Surety Bond and Financing Program services; and

**WHEREAS** it is desirable at this time to further amend said Agreement to authorize the Executive Director of the Port to approve additional work under said Agreement as set forth in Agenda Sheet Item No. O-6, dated October 5, 2004 (herein the "Agenda Sheet"), and additional compensation for such work; now, therefore, be it

**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the proposed First Supplemental Agreement with **NOR-CAL, FDC** 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 **NOR-CAL, FDC** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said First Supplemental Agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **NOR-CAL, FDC** shall be compensated for such

services including costs of miscellaneous reimbursable expenses at a maximum compensation that shall not exceed an additional \$66,000; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At the regular meeting held on October 5, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kiang - 1



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04285

RESOLUTION APPROVING TERMINATION OF HIRE  
AREA RESIDENTS PILOT PROGRAM AND  
RESCINDING BOARD APPROVAL OF PORT  
RESOLUTION NO. 94428, ESTABLISHING SAID  
PROGRAM.

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**RESOLVED** that the Board of Port Commissioners does hereby approve termination of the **Hire Area Residents Program ("HARP")**, an incentive-based pilot program, and rescinds Board approval of Port Resolution No. 94428, establishing said Program.

At the regular meeting held on October 5, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kiang - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04286

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH DAMATT ENGINEERING, INC. AT A MAXIMUM COMPENSATION OF \$1,000,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.

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**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. 0-8, dated **October 5, 2004** (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with **DAMATT ENGINEERING, INC.** for **on-call electrical engineering design services** 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 **DAMATT ENGINEERING, INC.** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **DAMATT ENGINEERING, INC.** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed **\$1,000,000** over the term of three (3) years; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on October 5, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kiang - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04287

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH RUMSEY ENGINEERS, INC. AT A MAXIMUM COMPENSATION OF \$1,000,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.

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**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. 0-8, dated **October 5, 2004** (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with **RUMSEY ENGINEERS, INC.** for **on-call mechanical engineering design services** 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 **RUMSEY ENGINEERS, INC.** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **RUMSEY ENGINEERS, INC.** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed **\$1,000,000** over the term of three (3) years; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on October 5, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kiang - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04288

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH ACEX TECHNOLOGIES, INC. AT A MAXIMUM COMPENSATION OF \$1,000,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.

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**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. O-8, dated **October 5, 2004** (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with **ACEX TECHNOLOGIES, INC.** for **on-call communications engineering design services** 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 **ACEX TECHNOLOGIES, INC.** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **ACEX TECHNOLOGIES, INC.** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed **\$1,000,000** over the term of three (3) years; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on October 5, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kiang - 1

MA

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04289

RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF AGREEMENTS WITH THE PORT'S INDUSTRIAL TENANTS WHO ELECT TO PARTICIPATE IN THE PORT'S INDUSTRIAL GROUP MONITORING PROGRAM ("IGMP") AND AUTHORIZING THE EXECUTIVE DIRECTOR OR HIS DESIGNEE TO ADMINISTER THE PORT'S IGMP, INCLUDING BUT NOT LIMITED TO, SETTING AN ANNUAL FEE FOR REIMBURSEMENT OF PORT EXPENSES.

---

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the execution for and on behalf of the Board agreements with the Port's industrial tenants who elect to participate in the Port's IGMP, as more fully set forth in Agenda Report Item 0-10 dated October 5, 2004, and be it

**FURTHER RESOLVED** that the Executive Director, or his designee, is authorized to administer the IGMP, including but not limited to, setting an annual fee for reimbursement of Port expenses; and be it

**FURTHER RESOLVED** that the Board finds and determines that the action herein is exempt from and not subject to the California Environmental Quality Act (CEQA) and Port CEQA Guidelines (§15061(b)(3)), in that the action is covered by CEQA General Rule that CEQA applies only to projects that have the potential for causing a significant effect on the environment, and it can be seen with certainty that there is no possibility that this action may have a significant effect on the environment; and be it

**FURTHER RESOLVED** that 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.

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

This resolution approves and authorizes the execution of agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party or parties, there shall be no valid or effective agreement.

At the regular meeting held on October 5, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kiang - 1

*JM*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04290

**RESOLUTION AUTHORIZING RENEWAL OF  
POTOMAC HULL AND MACHINERY, PROTECTION  
AND INDEMNITY, AND POLLUTION LIABILITY  
INSURANCE IN THE AMOUNT OF \$34,794.**

**RESOLVED** that the Board of Port Commissioners hereby ratifies and authorizes the Executive Director's placement, on behalf of the Board, the renewal of the Potomac's Hull and Machinery, Protection and Indemnity, and Pollution Liability Insurance, which expires on September 1, 2004, with One Beacon American Insurance Company, as described in Agenda Sheet Item No. 0-11, dated October 5, 2004; provided, however, that said insurance shall be approved as to form and legality by the Port Attorney and the annual premium for said insurance shall not exceed \$34,794.00.

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At the regular meeting held on October 5, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kiang - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04291

**RESOLUTION APPROVING BUILDING PERMIT  
REQUESTED BY SOUTHWEST AIRLINES CO.**

**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **SOUTHWEST AIRLINES CO.**, ("tenant") for permission to perform certain work at Building M130, Terminal 2, 1 Airport Drive, Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$37,000, said work and the conditions of Port approval being the following:

- 1) Removal of the existing ticket counter shells;
- 2) Installation of new "in-Line Kiosks";
- 3) Related electrical and data cabling work;
- 4) Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Class 1 of Guidelines Section 15301(a) and to Class 2 of Guidelines Section 15302; and be it



**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At the regular meeting held on October 5, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kiang - 1



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04292

RESOLUTION APPROVING AND AUTHORIZING THE PORT ATTORNEY TO TAKE ANY AND ALL ACTIONS NECESSARY (INCLUDING GIVING OF NOTICES TERMINATING TENANCY AND FILING COMPLAINTS FOR UNLAWFUL DETAINER AND BREACH OF CONTRACT) TO RECOVER FROM BAYSIDE DREDGING CO. ("BAYSIDE DREDGING") THE PREMISES LOCATED AT BERTH 9 - BAY BRIDGE TERMINAL, OAKLAND ("PREMISES"), AND DAMAGES AND/OR OTHER REMEDIES FROM OSCAR NIEMETH TOWING, INC. ("OSCAR NIEMETH TOWING") FOR BREACH OF ITS MEMORANDUM OF UNDERSTANDING WITH THE PORT REGARDING THE SILVER EAGLE TUGBOAT REPOWER PROJECT.

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**RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the Port Attorney to take any and all actions necessary (including giving of notices terminating tenancy and filing complaints for unlawful detainer and breach of contract) to recover from Bayside Dredging the Premises and damages and/or other remedies from Oscar Niemeth Towing for breach of its Memorandum of Understanding with the Port regarding the Silver Eagle Tugboat Repower Project dated September 6, 2000.

At the regular meeting held on October 19, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Protopappas and President Scates - 7

Noes: None

*RCM*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04293

RESOLUTION APPROVING AND AUTHORIZING THE PORT ATTORNEY TO TAKE ANY AND ALL ACTIONS NECESSARY (INCLUDING GIVING OF NOTICES TERMINATING TENANCY AND FILING COMPLAINTS FOR UNLAWFUL DETAINER AND BREACH OF CONTRACT) TO RECOVER FROM ORIENT REEFER CONTAINER SERVICES ("ORIENT REEFER") THE PREMISES KNOWN AS PARCEL A-1 MARITIME SUPPORT CENTER LOCATED AT 401 MARITIME STREET, OAKLAND ("PREMISES"), AND DAMAGES AND/OR OTHER REMEDIES FROM ORIENT REEFER FOR BREACH OF CONTRACT WITH THE PORT AND FOR OTHER PROPERTY DAMAGE.

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**RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the Port Attorney to take any and all actions necessary (including giving of notices terminating tenancy and filing complaints for unlawful detainer and breach of contract) to recover from Orient Reefer the Premises and damages and/or other remedies Orient Reefer owes the Port Under Space Assignment Agreement Nos. 1061MMJ5, MHQ-1000 MHQ-890, Settlement Agreement and Payment Plan dated as of October 15, 2003, License and Concession Agreement dated August 1, 1991 and for damage to other Port property.

At the regular meeting held on October 19, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Protopappas and President Scates - 7

Noes: None

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Item No.: A-7 A-1  
CHA/arg

en

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04294

RESOLUTION APPROVING PLANS AND PROJECT MANUAL FOR  
RECONSTRUCTION OF EAST APRON - PHASE 1, SOUTH FIELD,  
OAKLAND INTERNATIONAL AIRPORT, AIP 3-06-0170-29 AND AIP  
3-06-0170-36, AND CALLING FOR BIDS THEREFOR.

**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the development and use provided for in the plans and specifications and the subsequent use of the development approved by this resolution are in conformity with the General Plan of the City; and be it

**FURTHER RESOLVED** that the plans and specifications and other provisions relative thereto filed with the Board, based on the information contained in Board Agenda Report Item No. A-1 dated October 19, 2004 (herein "Agenda Report"), for **Reconstruction of East Apron - Phase 1, South Field, Oakland International Airport, Oakland, California, A.I.P. 3-06-0170-29, A.I.P. 3-06-0170-36**, ("the project"), are hereby approved; and be it

**FURTHER RESOLVED** that the Secretary of the Board is hereby authorized to advertise for four consecutive days in the official newspaper of the City of Oakland for sealed bids for the project not less than ten calendar days prior to November 23, 2004, the date set for receiving said bids; and be it

**FURTHER RESOLVED** that this project will be covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA"); and be it,

FURTHER RESOLVED that because this is a federal AIP project, Documents 00810, Non-Discrimination and Small Local Business Utilization Policy and 00815, Non-Discrimination in Construction Workforce Policy, contained in the Port of Oakland Standard Contract Provisions (October 2004 Edition), will be inapplicable and are not deemed incorporated in the contract; and be it

FURTHER RESOLVED that the Board hereby approves the project manual for Reconstruction of East Apron - Phase 1, South Field, Oakland International Airport, Oakland, California, A.I.P. 3-06-0170-29, A.I.P. 3-06-0170-36, and to the extent that any terms of the project manual conflict with the Standard Contract Provisions, the project manual will control; and be it

FURTHER RESOLVED that the Board hereby finds and determines that this project has been determined to be categorically except from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA guidelines pursuant to Section 15301, Class 1 and Section 15302, Class 2.

At the regular meeting held on October 19, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Protopappas and President Scates - 7

Noes: None

CHA

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04295

RESOLUTION AUTHORIZING TRANSFER OF UTILITY CORRIDOR PORTION OF WORK FROM THE GARAGE/CUSTOMER SERVICE PROJECT TO THE TERMINAL 2 PROJECT, AIRPORT EXPANSION PROJECT; INCLUDING AUTHORIZATION OF ADDITIONAL EXPENDITURE AUTHORITY FOR THE CONTRACT WITH DILLARD ENVIRONMENTAL SERVICE, IN THE AMOUNT OF \$8,121,000.

---

**RESOLVED** that based upon the information contained in Board Agenda Report Item No. A-2, dated October 19, 2004 (herein the "Agenda Report"), the Board hereby authorizes the transfer of the Utility Corridor portion of the work from the Garage/Customer Services Project to the Terminal 2 Project, Airport Terminal Expansion Project; and additional expenditure authority to the contract with Dillard Environmental Services, in the amount of \$8,121,000; and be it

**FURTHER RESOLVED** that the Board finds that it is in the Port's best interest to grant to the Executive Director the authority to issue additional change orders, not to exceed the aggregate total of \$700,000.00 for hazardous material remediation-related activities, including change orders or supplements to the contract with Dillard Environmental Services (Lic. #624665) for **Performing Emergency Spill Response and Handling Hazardous and Contaminated Materials at Port of Oakland Maritime and Aviation Construction Sites for the Period Commencing July 1, 2004 and ending June 30, 2005, 2006 or 2007, Oakland, California**, in accordance with Port Ordinance No. 1606, Section 5(i)(3)(ii); and be it

**FURTHER RESOLVED** that the provisions of the Port of Oakland Maritime and Aviation Project Labor Agreement (MAPLA) apply to the construction work associated with this project; and be it

**FURTHER RESOLVED** that neither the Port's Living Wage Ordinance (No. 3666) nor the requirements set forth in Section 728 of the Charter of the City of Oakland apply to this agreement; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from the requirements of the California Environmental Quality Act (CEQA) and the Port CEQA guidelines because the proposed transfer of the scope of work is exempt from supplemental environmental review under the California Environmental Quality Act (CEQA) because 1) it will not result in any additional environmental effects than those previously analyzed in the ADP EIR; and 2) it is not an activity that is a project under CEQA; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of an agreement with **PACIFIC GAS & ELECTRIC COMPANY** for installation of the natural gas line, in accordance with the Agenda Report, or an agreement containing such other reasonably related and consistent terms and conditions as may be negotiated by the Executive Director, within the expenditure level indicated in the Agenda Report; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective grant agreement.

At the regular meeting held on October 19, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 7

Noes: None



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04296

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION  
OF A SECOND SUPPLEMENTAL AGREEMENT TO THE  
LEASE WITH GRAY AND REYNOLDS PROPERTIES, INC.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the execution for and on behalf of the Board of a Second Supplemental Agreement to the Lease with **GRAY AND REYNOLDS PROPERTIES, INC.** to extend the pre-term period by four months, as set forth in Agenda Report Item C-1, dated October 19, 2004, (the "Agenda Report"); and be it

**FURTHER RESOLVED** the Board hereby authorizes the Executive Director to execute said agreement and such other agreements as may be necessary to carry out this resolution, consistent with this resolution and the Agenda Report and containing such additional provisions as shall be reasonably necessary to carry out this resolution; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act and the Port CEQA Guidelines pursuant to Guidelines Section 15332; and be it

**FURTHER RESOLVED** that this resolution is not evidence of and does not create or constitute (a) a contract or agreement, 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on October 19, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 7

Noes: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04297**

RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF AGREEMENT AMONG THE PORT OF OAKLAND ("PORT"), THE OAKLAND BASE REUSE AUTHORITY ("OBRA"), THE OAKLAND REDEVELOPMENT AGENCY ("ORA") AND THE OAKLAND ARMY BASE WORKFORCE DEVELOPMENT COLLABORATIVE ("WORKFORCE COLLABORATIVE") FOR THE RELOCATION OF THE WORKFORCE COLLABORATIVE GROUPS OFF OF THE FORMER OAKLAND ARMY BASE ("OAB"), AND AGREEMENT AMONG THE PORT, OBRA, ORA AND THE CITY COUNCIL TO IMPLEMENT THE CITY-PORT OAB MOA REGARDING SUCH RELOCATION.

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**RESOLVED** that based upon the information contained in Board Agenda Report M-1 dated October 19, 2004 ("Agenda Report"), the Board of Port Commissioners ("Board") hereby approves and authorizes the Executive Director for and on behalf of the Board to enter into a proposed Amended and Restated Memorandum of Understanding ("ARMOU") between and among OBRA, ORA, the Port and the Workforce Collaborative which, in accordance with the Collaborative Term Sheet, would provide for the relocation of the Workforce Collaborative, A Safe Place, Jobs Consortium and the Food Bank off of the OAB so that the sites are available to the Port for maritime purposes when the Port takes title to the sites; and be it

**FURTHER RESOLVED** that the Board hereby approves and authorizes the Executive Director for and on behalf of the Board to execute an agreement between the Port, on the one hand, and the City Council, OBRA and ORA, on the other hand to implement the provisions of Section 3.7 of the July 8, 2003, Memorandum of Agreement among the Port, OBRA, ORA and the City Council, regarding the parties' respective obligations for sharing the costs of the benefits and funding provided to the Workforce Collaborative, A Safe Place, Jobs Consortium and the Food Bank under the ARMOU; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of agreements in accordance with the terms of this resolution. Unless and until separate written agreements are duly executed on behalf of the Board as authorized by this resolution, are signed as approved as to form and legality by the Port Attorney, and are delivered to other contracting party, there shall be no valid or effective agreements.

At the regular meeting held on October 19, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 7

Noes: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04298

RESOLUTION APPROVING AND ADOPTING THE OCTOBER  
2004 EDITION OF THE PORT OF OAKLAND STANDARD  
CONTRACT PROVISIONS FOR PUBLIC WORKS  
CONTRACTS.

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**RESOLVED** that pursuant to Port Ordinance No. 1606, the Board of Port Commissioners ("Board") hereby approves and adopts the October 2004 Edition of the Port of Oakland Standard Contract Provisions for Public Works Contracts described in Agenda Report Item No. O-9, dated October 5, 2004.

At the regular meeting held on October 19, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Protopappas and President Scates - 7

Noes: None

10/19/04  
S-1  
VON:mj

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04299

**RESOLUTION APPROVING BUILDING PERMIT  
REQUESTED BY CORINTHIAN COLLEGES, INC.**

**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **CORINTHIAN COLLEGES, INC.** ("tenant") for permission to perform certain work at Building #L825, 7850 Earhart Road, Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$206,000, said work and the conditions of Port approval being the following:

- 1) Removal of an approximately 38,000 square foot existing roof;
- 2) Installation of a new composition shingle roof;
- 3) Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Class 1 of Guidelines Section 15301(d); and be it

**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At the regular meeting held on October 19, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 7

Noes: None

*DLH*

10/19/04  
S-2  
VON:mj *WOW*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04300

**RESOLUTION APPROVING BUILDING PERMIT  
REQUESTED BY FOSTER INTERSTATE MEDIA, INC.**

**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **FOSTER INTERSTATE MEDIA, INC.**, ("tenant") for permission to perform certain work at various locations at the Oakland International Airport, Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$2,000,000, said work and the conditions of Port approval being the following:

1. Construction of each Advertising Display shall not begin until (i) the FAA issues the results of its aeronautical studies indicating that such proposed Advertising Display is not an obstruction or hazard to air navigation, or (ii) the Port approves commencement of construction subject to FAA conditions/comments;
2. The Advertising Displays identified as the "Main Gate" and the 98th Avenue "Flag" will have the capability to display multiple advertising messages (hereafter "spots"). The number of separate spots may vary from time to time depending upon sales activity. Permittee will provide one spot per month at no charge to the Oakland Airport on each of these two Advertising Displays for the purposes of displaying an identity or welcome message; provided however the Port shall be responsible for all charges incurred in connection with the production of advertising copy and its installation. The Oakland Airport message will be displayed on the face of the Advertising Display that is most visible to traffic entering onto the Airport property from Hegenberger Road and 98th Avenue, respectively;
3. Pursuant to the provisions of Section 15.2 of the Permit, the parties will identify appropriate construction staging areas for each Advertising Display prior to the commencement of construction;

4. Subject to the provisions of Attachment A, Subpart Y and specifically, Subpart Y(8)(a) through (h), of the Space/Use Permit, Permittee will act in concert with the Port to coordinate the removal of excavated materials from the Assigned Space. All excavated materials will be tested and handled in accordance with recommendations of Port EH&SC;
5. All lights installed by Permittee in strict accordance with the applicable requirements of the construction plans approved by the Port for the Advertising Displays shall be accepted by the Port as being in compliance with the Port's Dark Skies policy, which policy is hereby incorporated into the Permit;
6. Contractor shall comply with the Maritime and Aviation Project Labor Agreement (MAPLA) in performing all work authorized by the Permit. Prior to commencement of said work, Permittee shall submit a fully executed copy of a MAPLA Letter of Assent covering said work executed by the Prime Contractor for the project;
7. In accordance with Attachment A, Subpart (A)(3) of the Permit, Permittee shall obtain all permits and approvals from the City of Oakland required for construction of the Advertising Displays, and shall comply with all conditions of such permits and approvals;
8. Permittee is solely responsible for compliance with all requirements of the State of California that apply to construction, operation and maintenance of the Advertising Displays. Permittee represents that no permit is required from the California Department of Transportation, Outdoor Advertising Division;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Class 3 of Guidelines Section 15303 and to Class 11 of Guidelines Section 15311; and be it



**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At the regular meeting held on October 19, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Katzoff, Kiang,  
Kramer, and President Scates - 5

Noes: None

Recused: Commissioners Batarse and Protopappas - 2



11/2/04 Item No.: A-2 rcm/PS 
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**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04301

**RESOLUTION FINDING AND DETERMINING THAT CERTAIN EQUIPMENT OWNED BY THE PORT IS NO LONGER REQUIRED FOR PORT USE AND AUTHORIZING THE EXECUTIVE DIRECTOR TO TRANSFER ALL TITLE AND INTEREST IN SAID EQUIPMENT TO SOUTHWEST AIRLINES IN CONSIDERATION FOR ITS REMOVAL BY SOUTHWEST.**

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**WHEREAS** certain equipment, as more fully described in Agenda Report Item No. A-2 dated November 2, 2004 ("Agenda Report"), is inadequate, obsolete or worn out; and

**WHEREAS** based upon information in the Agenda Report it is estimated that removal of the equipment for sale or disposal is likely to exceed the proceeds of sale; and

**WHEREAS** the Executive Director has received an informal proposal from Southwest Airlines ("Southwest") for the removal of said equipment in consideration for the Port's transfer of its interest in and title to said equipment, and otherwise at no cost to the Port; now therefore, be it

**RESOLVED** the Board of Port Commissioners ("Board") finds and determines that certain equipment, as more fully described in Agenda Report Item No. A-2 dated November 2, 2004 ("Agenda Report"), is inadequate, obsolete or worn out within the meaning of Section 12 of Port Ordinance No. 1606 and Section 5.13(a) of the Master Trust Indenture by and between the Port and First Trust of California, as Trustee; and be it

**FURTHER RESOLVED** that the Board finds and determines that the estimated cost of continued care and handling of said equipment by its removal and installation at another location, or its removal and sale, would exceed the value of said equipment within the meaning of Section 12.c. of Port Ordinance No. 1606; and be it

**FURTHER RESOLVED** that the Board finds and determines that an informal proposal submitted by Southwest to remove said equipment in consideration for the Port's transfer of all title and interest in said equipment, and otherwise at no cost to the Port, is in the best interest of the Port; and be it

**FURTHER RESOLVED** that the Executive Director hereby is authorized, accordingly, to transfer all of the Port's interest in and title to said equipment to Southwest based upon Southwest's informal proposal to remove same at no cost to the Port; and be it

**FURTHER RESOLVED** that the Executive Director be and he is hereby authorized to execute any necessary Bill of Sale, Contract, Permit and/or Right of Entry in connection therewith consistent with the Agenda Report; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement with each contracting party in accordance with the terms of this resolution. Unless and until a separate written agreement with each contracting party 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 other contracting party, there shall be no valid or effective agreement with said party.

At the regular meeting held on November 2, 2004

Passed by the following vote:

Ayes: Commissioners Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Ayers-Johnson - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04302

**RESOLUTION FINDING AND DETERMINING THAT CERTAIN  
MOTOR VEHICLES AND EQUIPMENT OWNED BY THE PORT ARE  
NO LONGER REQUIRED FOR PORT USE AND AUTHORIZING THE  
EXECUTIVE DIRECTOR TO SELL SAID SURPLUS VEHICLES AND  
EQUIPMENT.**

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**RESOLVED** that certain vehicles and equipment, as more fully described in Agenda Report Item No. A-5 dated November 2, 2004 ("Agenda Report"), are inadequate, obsolete or worn out within the meaning of Section 12 of Port Ordinance No. 1606 and Section 5.13(a) of the Master Trust Indenture by and between the Port and First Trust of California, as Trustee; and be it

**FURTHER RESOLVED** that the Executive Director hereby is authorized, accordingly, to sell at auction or private sale FOR the highest bidder and best bid therefor after the receipt of informal bids, such surplus vehicles and equipment as the Executive Director determines to be appropriate; and be it

**FURTHER RESOLVED** that the Executive Director be and he is hereby authorized to execute any necessary Bill of Sale in connection therewith.

At the regular meeting held on November 2, 2004

Passed by the following vote:

Ayes: Commissioners Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Ayers-Johnson - 1

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JAK

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04303

RESOLUTION FINDING AND DETERMINING THAT AN AMENDMENT OF A CERTAIN AGREEMENT WITH THE UNITED STATES DEPARTMENT OF AGRICULTURE WILDLIFE SERVICES CONSTITUTE PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID AMENDMENT.

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**WHEREAS** by Resolution No. 99345, the Board of Port Commissioners ("Board") approved an agreement with the **UNITED STATES DEPARTMENT OF AGRICULTURE WILDLIFE SERVICES ("USDA")**, for a Wildlife Hazard Assessment and a Wildlife Hazard Management Plan for the Oakland International Airport ("Agreement"); and

**WHEREAS** after evaluating the work performed to date, Airport and **USDA** staff have determined that full time presence should be maintained due to the extensive presence of wildlife and the frequency in occurrence of bird strikes; now therefore, be it

**RESOLVED** that the Board finds and determines that the proposed amendment for the wildlife services 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, without competitive bidding, and hereby approves and authorizes the Executive Director to execute for and on behalf of the Board an 3 year amendment to that certain agreement with **USDA** to provide a full time staff presence, as more fully described in Agenda Sheet Item No. A-6, dated November 2, 2004; and be it

**FURTHER RESOLVED** that 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 OF PORT COMMISSIONERS  
CITY OF OAKLAND**

Board or any officer or employee of the Board. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on November 2, 2004

Passed by the following vote:

Ayes: Commissioners Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Ayers-Johnson - 1

BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND

RESOLUTION NO. 04304

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED FIRST SUPPLEMENTAL AGREEMENT WITH FINGER DESIGN ASSOCIATES AT A MAXIMUM COMPENSATION OF \$70,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID SUPPLEMENTAL AGREEMENT.

---

**WHEREAS** by Resolution No. 04117, adopted by the Board of Port Commissioners (the "Board") on May 4, 2004, the Board authorized an Agreement with **FINGER DESIGN ASSOCIATES**, for consulting services with respect to providing master plan graphics consulting services; and

**WHEREAS** it is desirable at this time to further amend said Agreement to authorize the Executive Director of the Port to approve additional work under said Agreement as set forth in Agenda Sheet Item No. A-7, dated November 2, 2004 (herein the "Agenda Sheet"), and additional compensation for such work; now, therefore, be it

**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the proposed First Supplemental Agreement with **FINGER DESIGN ASSOCIATES** 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 **FINGER DESIGN ASSOCIATES** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said First Supplemental Agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **FINGER DESIGN ASSOCIATES** shall be compensated for such services including costs of miscellaneous reimbursable expenses at a maximum compensation that shall not exceed an additional \$70,000; unless additional work up to an additional amount of \$10,000 is approved in writing by the Executive Director and be it



**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At the regular meeting held on November 2, 2004

Passed by the following vote:

Ayes: Commissioners Batarse, Katzoff, Kiang  
Kramer, Protopappas and President Scates – 6

Noes: None

Absent: Commissioner Ayers-Johnson - 1

11/02/04  
Item No. A-8  
CHA/arc

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04305**

RESOLUTION FINDING AND DETERMINING THAT IT IS IN THE BEST INTEREST OF THE PORT TO AWARD THE CONTRACT FOR TESTING AND MAINTENANCE OF THE FIRE LIFE SAFETY SYSTEM, OAKLAND INTERNATIONAL AIRPORT, OAKLAND, CALIFORNIA, TO INTREPID ELECTRONICS, WITHOUT LOWEST-SEALED BID PROCEDURES AND AUTHORIZING EXECUTION OF CONTRACT FOR SUCH WORK BASED ON RECEIPT OF AN INFORMAL PROPOSAL.

---

**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the development and use provided for in the plans and specifications and the subsequent use of the development approved by this resolution are in conformity with the General Plan of the City; and be it

**RESOLVED** that the Director of Engineering or his designee is authorized to approve the plans and specifications for said projects in advance of construction, pursuant to Government Code Section 830.6; and be it

**FURTHER RESOLVED** that based upon the information contained in the Board Agenda Report Item No. A-1, dated November 2, 2004, (herein the "Agenda Report"), the Board hereby finds and determines that it is in the best interest of the Port to accomplish the testing and maintenance of the fire life safety system, Oakland International Airport, Oakland, California, without lowest-sealed bid procedures and that said lowest-sealed bill procedures are hereby waived; and be it.

**FURTHER RESOLVED** that the Executive Director is hereby authorized to negotiate and execute a contract for the testing and maintenance of the fire life safety system in an amount not to exceed \$75,000.00, based upon the receipt of an informal proposal from **Intrepid**

**Electronics ("Intrepid")**, with an option for two one-year extensions; and be it

**FURTHER RESOLVED** that if the Executive Director is unable to negotiate a contract with Intrepid, he is hereby authorized to negotiate and execute a contract for such work in the open market based upon the receipt of informal proposals; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project is determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Section 15301, Class 1, Existing Facilities; and be it

**FURTHER RESOLVED** that a bond for the faithful performance of the work, and a bond to guarantee the payment of all claims for labor and materials furnished and for amounts due under the Unemployment Insurance Code shall be provided by the Contractor as prescribed by the applicable laws and regulations and the contract specifications; and be it

**FURTHER RESOLVED** that pursuant to Port Ordinance 1606, Section 22, the Board finds and determines it to be in the Port's best interest to delegate to the Executive Director, and hereby delegates to the Executive Director, the authority to finally resolve bid protests in connection with this project; and be it

**FURTHER RESOLVED** that the work required by this project will not be covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA"); and be it

**FURTHER RESOLVED** that this resolution is not evidence of and does not create or constitute (a) a contract(s); or the grant of any right, entitlement or property interest, or (b) any obligation of liability on the part of the Board or any officer or employee of the Board. This resolution approves and authorizes the execution of an agreement(s) in accordance with the terms of this resolution. Unless and until a separate agreement(s) 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 its delivered to the other contracting party, there shall be no valid or effective agreement(s).

At the regular meeting held on November 2, 2004

Passed by the following vote:

Ayes: Commissioners Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Ayers-Johnson - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04306

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED FIRST SUPPLEMENTAL AGREEMENT WITH KEVIN HARPER, CPA AT A MAXIMUM COMPENSATION OF \$154,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID SUPPLEMENTAL AGREEMENT.

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**WHEREAS** by Resolution No. 02041, adopted by the Board of Port Commissioners (the "Board") on February 19, 2002, the Board authorized an Agreement with **KEVIN HARPER, CPA**, for consulting services with respect to auditing services related to Rental Car Customer Facility Charge (CFC) expenditures; and

**WHEREAS** it is desirable at this time to further amend said Agreement to authorize the Executive Director of the Port to approve additional work under said Agreement as set forth in Agenda Sheet Item No. A-9, dated November 2, 2004 (herein the "Agenda Sheet"), and additional compensation for such work; now, therefore, be it

**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the proposed First Supplemental Agreement with **KEVIN HARPER, CPA** 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 **KEVIN HARPER, CPA** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said First Supplemental Agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **KEVIN HARPER, CPA** shall be compensated for

such services including costs of miscellaneous reimbursable expenses at a maximum compensation that shall not exceed an additional \$154,000; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At the regular meeting held on November 2, 2004

Passed by the following vote:

Ayes: Commissioners Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Ayers-Johnson - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04307**

RESOLUTION RATIFYING AND APPROVING ADDENDUM TO SPECIFICATIONS FOR CONSTRUCTION OF SECURITY SYSTEM ON TAXIWAY B OVERPASS, NORTH FIELD, OAKLAND INTERNATIONAL AIRPORT, A.I.P. 3-06-0170-32; AWARDING CONTRACT TO KITECH SECURITY SYTEMS, INC. (LIC. #631634) IN THE AMOUNT OF \$274,000; AND FIXING THE AMOUNT OF BONDS.

WHEREAS on August 3, 2004, the Board of Port Commissioners ("Board") approved the plans and specifications for this project and authorized staff to advertise for bids to be received on September 8, 2004; and

RESOLVED that the Board hereby ratifies, confirms and approves Addendum No. 1 to the plans and specifications and other provisions relative thereto filed with the Board and described in Agenda Report Item No. A-10, dated November 2, 2004 (herein "Agenda Report"), for Construction of Security System on Taxiway B Overpass, North Field, Oakland International Airport A.I.P. 3-06-0170-32, Oakland, California; and be it

FURTHER RESOLVED that the Board awards the contract for Construction of Security System on Taxiway B Overpass, North Field, Oakland International Airport A.I.P. 3-06-0170-32, Oakland, California, to Kitech Security Systems, Inc. (Lic. #631634), a California corporation (herein "Contractor"), as the lowest responsible bidder, in accordance with the terms of the bid received September 8, 2004; and be it

FURTHER RESOLVED that a bond for the faithful performance of the work in the amount of \$274,000.00, and a bond to guarantee the payment of all claims for labor and materials furnished and for amounts due under the Unemployment Insurance Code, in the amount of \$274,000.00 shall be provided by the Contractor as prescribed by

applicable laws and regulations and the contract specifications; and be it

**FURTHER RESOLVED** that the procedure prescribed by applicable laws, regulations and the contract specifications shall be taken for the execution of said contract; provided, however, that said contract shall not be binding or enforceable against the Port unless and until it is approved in writing as to form and legality by the Port Attorney; and be it

**FURTHER RESOLVED** that this project will be covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA"), and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that the work of this project is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Section 15301, Class 1, Existing Facilities; a Notice of Exemption was filed with the Alameda County Clerk's Office in August 2004.

At the regular meeting held on November 2, 2004

Passed by the following vote:

Ayes: Commissioners Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Ayers-Johnson - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04308

RESOLUTION AUTHORIZING PROCUREMENT OF SHEET PILES, FENDERS, AND BOLLARDS FOR THE CONSTRUCTION OF BERTH 23 AND BERTH 30 WHARF AND EMBANKMENT OF STRENGTHENING PROGRAM (WESP), OUTER HARBOR, IN THE ESTIMATED AMOUNT OF \$3,000,000.

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**RESOLVED** that based upon the information contained in Board Agenda Report Item No. M-1, dated November 2, 2004, (herein "Agenda Report"), the Secretary of the Board is hereby authorized to advertise in the official newspaper of the City of Oakland for sealed bids for the procurement of sheet piles, fenders and bollards for the Construction of Berth 23 and Berth 30 Wharf and Embankment Strengthening Program (WESP), Outer Harbor, Oakland, California, not less than ten calendar days prior to the date set for receiving said bids; and be it

**FURTHER RESOLVED** that the contracts do not involve construction type work, and therefore will not be covered by the provisions of the Maritime and Aviation Project Labor Agreement (MAPLA); and be it

**FURTHER RESERVED** that the Executive Director may procure from multiple vendors the required commodities, however, the aggregate total of all contracts, purchase orders or expenditures for the sheet piles, fenders and bollards, including any taxes, duties and transportation costs, shall not exceed \$3,000,000; and be it

**FURTHER RESOLVED** the Berths 23-26 and 30 WESP project has been evaluated pursuant to the California Environmental Quality Act (CEQA) under the Oakland Harbor Navigation Improvement (-50 Foot) Project EIS/EIR. This joint document was prepared by the U.S. Army Corps of Engineers, San Francisco District, and the Port of Oakland in 1998. The EIR and the Mitigation Monitoring Reporting Program (MMRP) was certified by the Board of Port Commissioners on February 1, 2000 (Resolution No. 20049). A Record of Decision was signed by the U.S. Army Corps of Engineers on October 8, 1999. Refinements in design and



mitigation measures were evaluated in the First Addendum approved on July 18, 2000 (Resolution 20281).

The wharf and embankment strengthening program is a mitigation measure from the -50 Foot Project EIS/EIR and is covered in that document, which addresses the environmental impacts of strengthening wharves to accommodate deepening of existing berths, including the building of sheet pile walls at the toe of the shore slope, building new crane rail girders to the waterside of existing girders and replacing piles at the waterside crane rail girders. WESP design and construction shall include applicable mitigation measures from the -50 Foot Project MMRP; and be it

**FURTHER RESOLVED** that this resolution is not evidence of and does not create or constitute (a) a contract(s), 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. This resolution approves and authorizes the execution of a contract or contracts in accordance with the terms of this resolution. Unless and until a separate written contract(s) 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 contract(s).

At the regular meeting held on November 2, 2004

Passed by the following vote:

Ayes: Commissioners Batarse, Katzoff, Kiang, Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Ayers-Johnson - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04309

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH URS CORPORATION AT A MAXIMUM COMPENSATION OF \$5,000,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.

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**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. **M-2**, dated **November 2, 2004** (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with **URS CORPORATION** for **as-needed engineering design and/or construction-related services for the Marine Terminal wharf design projects** 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 **URS CORPORATION** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **URS CORPORATION** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed **\$5,000,000 for a 5-year term**, if a Technical Service Order (TSO) is issued from the date of board action; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on November 2, 2004

Passed by the following vote:

Ayes: Commissioners Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Ayers-Johnson - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04310

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH CH2MHILL AT A MAXIMUM COMPENSATION OF \$5,000,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.

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RESOLVED that based upon the information contained in Board Agenda Sheet Item No. M-2, dated November 2, 2004 (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with CH2MHILL for as-needed engineering design and/or construction-related services for the Marine Terminal wharf design projects 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 CH2MHILL without competitive bidding; and be it

FURTHER RESOLVED that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that CH2MHILL shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed \$5,000,000 for a 5-year term, if a Technical Service Order (TSO) is issued from the date of board action; and be it

FURTHER RESOLVED that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on November 2, 2004

Passed by the following vote:

Ayes: Commissioners Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Ayers-Johnson - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04311

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH LIFTECH CONSULTANTS, INC. AT A MAXIMUM COMPENSATION OF \$5,000,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.

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**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. **M-2**, dated **November 2, 2004** (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with **LIFTECH CONSULTANTS, INC.** for **as-needed engineering design and/or construction-related services for the Marine Terminal wharf design projects** 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 **LIFTECH CONSULTANTS, INC.** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **LIFTECH CONSULTANTS, INC.** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed **\$5,000,000 for a 5-year term**, if a Technical Service Order (TSO) is issued from the date of board action; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on November 2, 2004

Passed by the following vote:

Ayes: Commissioners Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Ayers-Johnson - 1

*JPC*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04312

RESOLUTION APPROVING FIRST ADDENDUM TO INITIAL STUDY AND NEGATIVE DECLARATION FOR CONSTRUCTION OF BERTHS 32/33 WHARF REHABILITATION, OUTER HARBOR, OAKLAND, CALIFORNIA, REVISING PROJECT DESCRIPTION TO INCLUDE BERTH 33 EXTENSION AND ASSOCIATED YARD IMPROVEMENTS, FINDING NO SUBSTANTIAL EVIDENCE OF SIGNIFICANT EFFECT ON THE ENVIRONMENT FROM THE MODIFICATION OF THE PROJECT, AND AUTHORIZING ACCEPTANCE OF REGULATORY PERMITS AND AMENDMENTS, INCLUDING WASTE DISCHARGE REQUIREMENTS AND WATER QUALITY CERTIFICATION.

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**WHEREAS** on January 21, 2003, the Board of Port Commissioners ("Board") adopted Resolution No. 03010, certifying the Initial Study/Negative Declaration for work associated with the Berths 32/33 Wharf Rehabilitation Project and a Notice of Determination was filed with the County of Alameda on January 29, 2003; and

**WHEREAS** it is necessary to modify the Project by adding an extension to Berth 33 and associated yard improvements, as more fully described in Agenda Report Item No. M-3 ("Agenda Report"); now therefore be it

**RESOLVED** that the Board hereby approves a First Addendum to the Initial Study/Negative Declaration to the Berths 32/33 Wharf Rehabilitation Project, to include in the Project Description the Berth 33 Extension and associated yard improvements work as more fully described in the Agenda Report; and be it

**FURTHER RESOLVED** that the Board hereby certifies and finds that it has been presented with and has reviewed and considered the Addendum to the Initial Study/Negative Declaration for the Berths 32/33 Wharf Rehabilitation Project as modified and the environmental information

contained in the environmental section in the Agenda Report, and that the Project as modified will not result in any new significant or substantially more severe environmental impacts than were previously identified when the Board certified the Initial Study/Negative Declaration for work associated with the Berths 32/33 Wharf Rehabilitation Project on January 21, 2003, adopted by Resolution No. 03010, and that, as a result, no new environmental analysis is needed; and be it

**FURTHER RESOLVED** that on the basis of the Board's finding that there is no substantial evidence that said project will have any new significant or substantially more severe effects on the environment, the Board hereby approves and adopts the First Addendum to the Initial Study/Negative Declaration to the Berths 32/33 Wharf Rehabilitation Project as modified by the addition of the Berth 33 Extension and Associated Yard Improvements; and be it

**FURTHER RESOLVED** that the Board hereby finds that the First Addendum to the Initial Study/Negative Declaration reflects the independent judgment of the Board; and be it

**FURTHER RESOLVED** that the location and custodian of the documents or other material which constitute the record of proceedings upon which the Board's decision is based respectively are 530 Water Street, Oakland, California, and the Secretary of the Board; and be it

**FURTHER RESOLVED** that the Board hereby approves and authorizes the Executive Director or his designee to negotiate and accept and execute regulatory permits issued by the U.S. Army Corps of Engineers ("Corps") and the San Francisco Bay Conservation and Development Commission ("BCDC"), and to accept the terms of the waste discharge requirements and water quality certification issued by the San Francisco Regional Water Quality Control Board ("Water Board Authorization"), associated with the construction of the Berth 33 extension and the associated yard improvements, all in accordance with Agenda Report Item M-3, dated November 2, 2004; and be it

**FURTHER RESOLVED** that 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 the Port Attorney approves the Corps and BCDC Permits and Water Board Authorization as to form and legality and then only to

the extent provided for in the provisions of the Corps and BCDC Permits and the Water Board Authorization which are consistent with applicable legal authorization for the issuance of the Corps and BCDC Permits and the Water Board Authorization.

At the regular meeting held on November 2, 2004

Passed by the following vote:

Ayes: Commissioners Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Ayers-Johnson - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04313**

RESOLUTION FINDING AND DETERMINING THAT IT IS IN THE BEST INTEREST OF THE PORT TO CONTRACT FOR FURNISHING LABOR, MATERIALS AND EQUIPMENT FOR ELECTRICAL WORK AND ASSOCIATED SERVICES FOR PORT OF OAKLAND FACILITIES FOR THE PERIOD COMMENCING JANUARY 1, 2005, AND ENDING DECEMBER 31, 2005, 2006 OR 2007, WITHOUT LOWEST-SEALED BID PROCEDURES AND AUTHORIZING EXECUTION OF CONTRACTS FOR SUCH WORK BASED ON RECEIPT OF INFORMAL PROPOSALS.

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**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the development and use provided for in the plans and specifications approved by this resolution are in conformity with the General Plan of the City; and be it

**FURTHER RESOLVED** that the Director of Engineering or his designee is authorized to approve the plans and specifications for said projects in advance of construction, pursuant to Government Code Section 830.6; and be it

**FURTHER RESOLVED** that based upon the information contained in Board Agenda Report Item No. O-1, dated November 2, 2004 (herein the "Agenda Report"), the Board hereby finds and determines that it is in the best interest of the Port to accomplish the **Furnishing Labor, Materials and Equipment for Electrical Work and Associated Services for Port of Oakland Facilities for the Period Commencing January 1, 2005, and Ending December 31, 2005, 2006 or 2007, Oakland, California** without lowest-sealed bid procedures and that said lowest-sealed bid procedures are hereby waived; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of three contracts for **Furnishing Labor, Materials and Equipment for Electrical Work and Associated Services for Port of Oakland**



Facilities for the Period Commencing January 1, 2005, and Ending December 31, 2005, 2006 or 2007, Oakland, California, one with a local small contractor, based upon the receipt of informal proposals, provided that if the Executive Director determines that no acceptable proposal has been received from a contractor in the Local Impact Area then all three contracts may be made with any qualified contractor based upon the receipt of informal proposals; and be it

**FURTHER RESOLVED** that this project will be covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA"), however, if one of the contracts is awarded to a local small contractor, that contract will be exempt from the provisions of the MAPLA if awarded to a local small contractor that is eligible for exemption under the program established by MAPLA's Appendix "G"-Letter of Understanding re: Small Business Utilization Program; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that dispensing with standard bidding procedures for this project will not result in any physical change in the environment, therefore it is exempt from the California Environmental Quality Act (CEQA). When specific activities that will be performed using those services are identified, staff will determine at that time whether additional CEQA review and clearance is needed; and be it;

**FURTHER RESOLVED** that, pursuant to Port Ordinance 1606, Section 22, the Board finds and determines it to be in the Port's best interest to delegate to the Executive Director, and hereby delegates to the Executive Director, the authority to finally resolve bid protests in connection with this project; and be it

**FURTHER RESOLVED** that this resolution is not evidence of and does not create or constitute (a) a contract(s), 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. 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 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(s).

At the regular meeting held on November 2, 2004

Passed by the following vote:

Ayes: Commissioners Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Ayers-Johnson - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04314

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH MATTHEW DAVIS, AN INDIVIDUAL, AT A MAXIMUM COMPENSATION OF \$30,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.

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**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. O-2, dated **November 2, 2004** (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with **MATTHEW DAVIS** for **government affairs consulting services** 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 **MATTHEW DAVIS** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **MATTHEW DAVIS** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed **\$30,000 (including payments of \$15,000 made under a Port Purchase Order)**; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on November 2, 2004

Passed by the following vote:

Ayes: Commissioners Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Ayers-Johnson - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04315

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH FAIRBANK, MASLIN, MAULIN AND ASSOCIATES AT A MAXIMUM COMPENSATION OF \$50,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.

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**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. O-3, dated **November 2, 2004** (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with **FAIRBANK, MASLIN, MAULIN AND ASSOCIATES** for qualitative and quantitative study of Port tenants, high level analysis and related consultation 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 **FAIRBANK, MASLIN, MAULIN AND ASSOCIATES** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **FAIRBANK, MASLIN, MAULIN AND ASSOCIATES** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed **\$50,000**; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on November 2, 2004

Passed by the following vote:

Ayes: Commissioners Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Ayers-Johnson - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04316

RESOLUTION APPROVING THE PORT OF OAKLAND'S  
DISADVANTAGED BUSINESS ENTERPRISE ("DBE") FY 04-05  
OVERALL ANNUAL GOAL REPORT.

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**RESOLVED** that the Board of Port Commissioners ("Board") does hereby approve the Port's DBE FY-04-05 Overall Annual Goal Report for the Federal Aviation Administration for advertisement and public comment, as further described in Agenda Report Item No. 0-4, dated November 2, 2004.

At the regular meeting held on November 2, 2004

Passed by the following vote:

Ayes: Commissioners Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Ayers-Johnson - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04317

**RESOLUTION FINDING AND DETERMINING THAT A PROPOSED SUPPLEMENTAL AGREEMENT WITH WORLDWIDE QUALITY ASSURANCE LTD. FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID SUPPLEMENTAL AGREEMENT.**

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**WHEREAS** by Resolution No. 02098, adopted by the Board of Port Commissioners (the "Board") on April 2, 2002, the Board authorized an Agreement with **WORLDWIDE QUALITY ASSURANCE LTD.**, for consulting services with respect to services related to assessment of Certification by the International Organization for Standardization (ISO); and

**WHEREAS** it is desirable at this time to further amend said Agreement to authorize the Executive Director of the Port to approve additional work as more fully set forth in Agenda Sheet Item No. O-6, dated November 2, 2004 (herein the "Agenda Sheet"), and additional compensation for such work; now, therefore, be it

**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the proposed Supplemental Agreement with **WORLDWIDE QUALITY ASSURANCE LTD.** 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 **WORLDWIDE QUALITY ASSURANCE LTD.** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said Supplemental Agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **WORLDWIDE QUALITY ASSURANCE LTD.** shall be compensated for such services including costs of miscellaneous reimbursable expenses at a maximum compensation that shall not exceed an additional **\$180,000** unless additional work up to an additional amount of **\$25,000** is approved in writing by the Executive Director; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At the regular meeting held on November 2, 2004

Passed by the following vote:

Ayes: Commissioners Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Ayers-Johnson - 1

*UOW*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND  
RESOLUTION NO. 04318**

**RESOLUTION APPROVING BUILDING PERMIT  
REQUESTED BY BUSINESS JET CENTER-OAKLAND,  
L.P.**

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**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **BUSINESS JET CENTER-OAKLAND, L.P.**, ("tenant") for permission to perform certain work at Building 9625 Earhart Road, Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$20,000, said work and the conditions of Port approval being the following:

- 1) Installation of a four sided pole sign at the tenant's new aircraft fueling facility at the North Airport;
- 2) Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Class 11 of Guidelines Section 15311; and be it

**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At the regular meeting held on November 2, 2004

Passed by the following vote:

Ayes: Commissioners Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Ayers-Johnson - 1



*WOW*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND  
RESOLUTION NO. 04319**

**RESOLUTION APPROVING BUILDING PERMIT  
REQUESTED BY TIME WARNER TELECOM OF  
CALIFORNIA L.P.**

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**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **TIME WARNER TELECOM OF CALIFORNIA L.P.**, ("tenant") for permission to perform certain work at area of 1 Sally Ride Way, Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$15,000, said work and the conditions of Port approval being the following:

- 1) Installation of approximately 10,000 feet of fiber optic cable through an existing Port owned underground conduit;
- 2) Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Class 1 of Guidelines Section 15301; and be it

**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At the regular meeting held on November 2, 2004

Passed by the following vote:

Ayes: Commissioners Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Ayers-Johnson - 1



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04320

RESOLUTION APPROVING ADDENDA TO SETTLEMENT  
AGREEMENTS WITH CITY OF SAN LEANDRO AND SAN  
LEANDRO AND SAN LORENZO SCHOOL DISTRICTS AND  
AUTHORIZING EXECUTION OF SAME.

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**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the execution for and on behalf of the Board of Addenda to Settlement Agreements with the City of San Leandro and San Leandro and San Lorenzo School Districts, containing such other reasonably related and consistent terms and conditions as may be negotiated by the Executive Director; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At the regular meeting held on November 16, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 7

Noes: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04321

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH DMJM+HARRIS, INC. AT A MAXIMUM COMPENSATION OF \$1,535,570 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.

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**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. **A-2**, dated **November 16, 2004** (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with **DMJM+HARRIS, INC.** for **Engineering services for reconstruction of East Apron - Phase 2, South Field, Oakland International airport** 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 **DMJM+HARRIS, INC.** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **DMJM+HARRIS, INC.** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed **\$1,535,570** and additional confidential amount for Executive Director discretion as certified by the Board of Port Commissioners in closed session; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on November 16, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 7

Noes: None

CAH

BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND

RESOLUTION NO. 04322

RESOLUTION FINDING AND DETERMINING THAT IT IS IN THE BEST INTEREST OF THE PORT TO CONTRACT FOR CONSTRUCTION OF MICROPILES AND FOUNDATIONS, TERMINAL 2, SOUTH FIELD, OAKLAND INTERNATIONAL AIRPORT, WITHOUT LOWEST-SEALED BID PROCEDURES; AND AUTHORIZING EXECUTION OF A CONTRACT FOR SUCH WORK BASED ON RECEIPT OF INFORMAL PROPOSALS.

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**RESOLVED**, that the Board of Port Commissioners ("Board") hereby finds and determines that the development and use provided for in the plans and specifications and the subsequent use of the development approved by this resolution are in conformity with the General Plan of the City; and be it

**FURTHER RESOLVED** that the Director of Engineering or his designee is authorized to approve the plans and specifications for said projects in advance of construction, pursuant to Government Code Section 830.6; and be it

**FURTHER RESOLVED** based upon the information contained in Board Agenda Report No. A-3, dated November 16, 2004 (herein "Agenda Report"), that the Board of Port Commissioners hereby finds and determines that it is in the best interests of the Port to contract for **Construction of Micropiles and Foundations, Terminal 2, South Field, Oakland International Airport, Oakland, California**, without lowest-sealed bid procedures and that said lowest-sealed bid procedures are hereby waived; and be it

**FURTHER RESOLVED** that the Board hereby approves and authorizes the Executive Director to negotiate and execute a contract change order with the lowest responsible proposer, based upon the receipt of informal proposals from contractors currently under contract with the Port for other Port work, for work for **Construction of Micropiles and Foundations, Terminal 2, South Field, Oakland**

International Airport, Oakland, California, upon terms and conditions consistent with said Agenda Sheet, provided, that if the Executive Director determines that no acceptable proposal has been received from a contractor currently under contract with the port, then said contract may be made with any qualified contractor based upon the receipt of informal proposals; and be it;

**FURTHER RESOLVED** that the total amount of expenditures necessary to complete the work shall not exceed the amount certified by the Board; and be it

**FURTHER RESOLVED** that the work performed under this change order will be covered by the provisions of the Port of Oakland Maritime and Aviation Project Labor Agreement ("MAPLA"); and be it

**FURTHER RESOLVED** that a bond for the faithful performance of the work, and a bond to guarantee the payment of all claims for labor and materials furnished and for amounts due under the Unemployment Insurance Code shall be provided by the Contractor as prescribed by the applicable laws and regulations and the contract specifications; and be it

**FURTHER RESOLVED** the Notice of Exemption for the Terminal 2 Building Improvements for Baggage and Security Checkpoint Areas was filed with the County of Alameda on June 12, 2002, pursuant to the California Environmental Quality Act (CEQA), this change order does not change the project description, therefore, another CEQA notice is not required for this board action; and be it

**FURTHER RESOLVED** that pursuant to Port Ordinance 1606, Section 22, the Board finds and determines it to be in the Port's best interest to delegate to the Executive Director, and hereby delegates to the Executive Director, the authority to finally resolve bid protests in connection with this project; and be it

**FURTHER RESOLVED** that this resolution is not evidence of and does not create or constitute (a) a contract(s), 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. This resolution approves and authorizes the execution of a contract change order or in accordance with the terms of this resolution. Unless and until a separate written contract change order 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 change order.

At the regular meeting held on November 16, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 7

Noes: None



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04323**

**RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH ELLIS PARTNERS FOR GARBAGE AND RECYCLING PROGRAM AND SECURITY SERVICES AT THE JACK LONDON SQUARE CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID AGREEMENT.**

**RESOLVED** that the Board of Port Commissioners ("Board" ) hereby finds and determines that the proposed Agreement with **ELLIS PARTNERS** for garbage/recycling program and security guard services at Jack London Square 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 **ELLIS PARTNERS** without competitive bidding, as set forth in Agenda Sheet Item No. C-1, dated November 16, 2004; and be it

**FURTHER RESOLVED** that the Board hereby approves and authorizes the execution for and on behalf of the Board the agreement with **ELLIS PARTNERS** and provided **ELLIS PARTNERS** shall be compensated for such services in the approximate amounts of (1)\$1,800 per month for garbage/recycling program and (2) \$20,000 per month for security guard services in Jack London Square, upon terms and conditions consistent with the Agenda Sheet; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At the regular meeting held on November 16, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Protopappas and President Scates - 7

Noes: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04324

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH ABM JANITORIAL SERVICES FOR JANITORIAL SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID AGREEMENT.

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**RESOLVED** that the Board of Port Commissioners ("Board") hereby finds and determines that the proposed Agreement with **ABM JANITORIAL SERVICES** for janitorial services at Jack London Square 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 **ABM JANITORIAL SERVICES** without competitive bidding, as set forth in Agenda Sheet Item No. C-1, dated November 16, 2004; and be it

**FURTHER RESOLVED** that the Board hereby approves and authorizes the execution for and on behalf of the Board the agreement with **ABM JANITORIAL SERVICES** and provided **ABM JANITORIAL SERVICES** shall be compensated for such services in the approximate amount of \$17,092 per month for a period of six (6) months, upon terms and conditions consistent with the Agenda Sheet; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At the regular meeting held on November 16, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 7

Noes: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04325

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH ABM ENGINEERING SERVICES FOR BUILDING ENGINEERING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID AGREEMENT.

**RESOLVED** that the Board of Port Commissioners ("Board" ) hereby finds and determines that the proposed Agreement with **ABM ENGINEERING SERVICES** for building engineering services at Jack London Square 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 **ABM ENGINEERING SERVICES** without competitive bidding, as set forth in Agenda Sheet Item No. C-1, dated November 16, 2004; and be it

**FURTHER RESOLVED** that the Board hereby approves and authorizes the execution for and on behalf of the Board the agreement with **ABM ENGINEERING SERVICES** and provided **ABM ENGINEERING SERVICES** shall be compensated for such services in the approximate amount of \$19,830 per month for a period of one (1) year, upon terms and conditions consistent with the Agenda Sheet; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At the regular meeting held on November 16, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 7

Noes: None

*RM*

11/16/04  
Item No.: M-1  
CHA/arg *CLW*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04326**

**RESOLUTION AUTHORIZING ACCEPTANCE OF  
TRANSPORTATION SECURITY ADMINISTRATION/OFFICE OF  
DOMESTIC PREPAREDNESS [TSA/ODP] FEDERAL SEAPORT  
SECURITY 4<sup>TH</sup> ROUND GRANT AWARDS; AND AUTHORIZING  
AN ON-CALL AGREEMENT WITH TEECOM DESIGN GROUP FOR  
SECURITY DESIGN.**

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**WHEREAS** on October 1, 2002, pursuant to Resolution No. 02331, the Board of Port Commissioners (Board) ratified staff's actions in submitting applications for funding security enhancements under the Maritime Administration ("MARAD") and Transportation Security Administration ("TSA") Seaport Security Grant Program, and further authorized the submission of additional applications for security grants; and

**WHEREAS** by Resolution No. 03251, adopted by the Board on September 2, 2003, the Board authorized the Second Supplemental Agreement with TEECOM Design Group extending the terms of the Agreement for consulting services with respect to on-call telecommunications engineering services; and

**WHEREAS** it is desirable at this time to authorize the Executive Director to enter into a new consultant agreement with TEECOM Design Group for on-call telecommunications engineering; now therefore be it

**RESOLVED** that the Board of Port Commissioners hereby authorizes the acceptance of the TSA/OFD Federal Seaport 4<sup>th</sup> Round Grant Awards in the amount of \$1,197,500.00, and authorizes the Executive Director or his designee to conduct all negotiations, and to execute and submit all documents which may be necessary or convenient to complete said application(s) for and on behalf of said Board, in

accordance with Agenda Report Item No. M-1, dated November 16, 2004 ("Agenda Report"), and the Secretary is hereby authorized and directed to attest the execution of such grant agreements; provided, however, that such grant agreements shall not be binding or enforceable against the Port unless and until approved in writing as to form and legality by the Port Attorney; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that the proposed Agreement with **TEECOM** 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 **TEECOM DESIGN GROUP** without lowest-sealed bid procedures and that said lowest-sealed bid procedures are waived; and be it

**FURTHER RESOLVED** that the Board hereby approves and authorizes the execution of said Agreement in an amount not to exceed \$85,000.000, upon terms and conditions consistent with the Agenda Report; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that the California Environmental Quality Act (CEQA) Guidelines apply only to projects which have the potential for causing a significant effect on the environment, extension of the TSA/ODP grant awards, extension of the on-call professional services agreement with **TEECOM**, and delegation to the Executive Director of authority to resolve bid protests are not projects under CEQA and no environmental review is required for those activities.

**FURTHER RESOLVED** that this resolution is not evidence of and does not create or constitute (a) a contract(s), 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. 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 as approved as to form and legality by the Port Attorney, and is delivered to the other contracting party, there shall be no valid or effective agreement(s).

At the regular meeting held on November 16, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 7

Noes: None

BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND

RESOLUTION NO. 04327

RESOLUTION FINDING AND DETERMINING THAT IT IS IN THE BEST INTEREST OF THE PORT TO CONTRACT FOR THE PROCUREMENT OF LIGHTING EQUIPMENT FOR THE BERTHS 57-59 - PHASE 2 YARD IMPROVEMENTS, SSA TERMINALS, LTD, MIDDLE HARBOR, WITHOUT LOWEST SEALED BID PROCEDURES AND AUTHORIZING EXECUTION OF A CONTRACT FOR SUCH WORK BASED ON RECEIPT OF INFORMAL PROPOSALS.

RESOLVED that based upon the information contained in Board Agenda Report Item No. M-2, dated November 16, 2004 (herein "Agenda Report"), the Board hereby finds and determines that it is in the best interest of the Port to accomplish the **Procurement of Lighting Equipment for the Berths 57-59 - Phase 2 Yard Improvements, SSA Terminals, Ltd., Middle Harbor, Oakland, California**, without lowest-sealed bid procedures and that said lowest-sealed bid procedures are hereby waived; and be it

FURTHER RESOLVED that the Board hereby approves and authorizes the Executive Director to negotiate and execute a contract for **Procurement of Lighting Equipment for the Berths 57-59 - Phase 2 Yard Improvements, SSA Terminals, Ltd., Middle Harbor, Oakland, California**, in an amount not to exceed \$75,000.00, based upon the receipt of informal proposals; and be it

FURTHER RESOLVED that pursuant to Port Ordinance 1606, Section 22, the Board finds and determines it to be in the Port's best interest to delegate to the Executive Director, and hereby delegates to the Executive Director, the authority to finally resolve bid protests in connection with this project; and be it

FURTHER RESOLVED that the provisions of the Port of Oakland Maritime and Aviation Project Labor Agreement ("MAPLA") do not apply to this equipment purchase; and be it

FURTHER RESOLVED that the Board hereby finds and determines that under the California Environmental Quality Act (CEQA), the Berths 55-58 Project Environmental Impact Report (EIR) provides sufficient

environmental review of the expansion of the Berths 57-59 container yard into the D-833 area to increase the tenant's operating area. The EIR was certified by the Board on April 20, 1999, pursuant to Resolution No. 99154; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of a contract in accordance with the terms of this resolution. Unless and until a separate written contract 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 contract.

At the regular meeting held on November 16, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Protopappas and President Scates - 7

Noes: None

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04328

RESOLUTION AUTHORIZING UTILIZATION OF  
CONSTRUCTION BIDBOARD, INC.'S SERVICES FOR  
WEB PUBLICATION OF PORT OF OAKLAND  
DOCUMENTS.

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**RESOLVED** that the Board hereby authorizes staff to utilize the services of Bidboard Construction, Inc.'s website for the paperless distribution of bidding documents for Port public works projects, in accordance with Agenda Report Item No. O-1 dated November 16, 2004.

At the regular meeting held on November 16, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang, Kramer, Protopappas and President Scates - 7

Noes: None



*WOW*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04329

**RESOLUTION APPROVING BUILDING PERMIT  
REQUESTED BY JETBLUE AIRWAYS.**

**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **JETBLUE AIRWAYS** ("tenant") for permission to perform certain work at Building M101, 1 Airport Drive, Terminal I, Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$9,000, said work and the conditions of Port approval being the following:

- 1) Relocation of four (4) existing E Ticket Machine (ETM) kiosks;
- 2) Installation of five (5) new ETM kiosks in the ticket counter area of Terminal I;
- 3) Related electrical and data cabling work;
- 4) Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Class 1 of Guidelines Section 15301; and be it

**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At the regular meeting held on November 16, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff, Kiang,  
Kramer, Protopappas and President Scates - 7

Noes: None



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04330**

**RESOLUTION COMPROMISING AND SETTLING  
CLAIMS AND AUTHORIZING EXECUTION OF  
STIPULATED SETTLEMENT.**

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**WHEREAS**, LUCILA MONTOYA has pending as Case No. OAK 268863 and OAK 284056 as application for adjudication of claim filed before the Workers' Compensation Appeals Board alleging injuries she sustained arising out of and in the course of employment and seeking compensation therefor; and

**WHEREAS**, a dispute has arisen between the Port and LUCILA MONTOYA regarding the extent of injuries arising out of and in the course of employment and the extent and amount of permanent disability indemnity and other workers' compensation benefits which may be payable; and

**WHEREAS**, LUCILA MONTOYA has offered to accept the sum of \$40,000.00, in compromise and full satisfaction of said workers' compensation claims during her employment by the Port; and

**WHEREAS**, this Board does find that it is in the best interest of the Port to compromise and settle said claims and Workers' Compensation Appeals Board proceedings upon said basis for the total sum of \$40,000.00, respecting workers' compensation benefits from which sum LUCILA MONTOYA agrees to pay her attorney's fees; now, therefore, be it

**RESOLVED** that the Port Attorney be and he hereby is authorized to compromise and settle said claim for workers' compensation benefits as Case No. OAK 268863 and OAK 284056 now pending before the Workers' Compensation Appeals Board by paying to LUCILA MONOTYA the sum of \$40,000.00, and further to enter into a stipulated agreement on said basis, and the Port Attorney is hereby authorized to execute any and all necessary agreements to effect this compromise and settlement.

At the regular meeting held on December 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Kiang,  
Protopappas and President Scates - 5

Noes: None

Absent: Commissioners Katzoff and Kramer - 2

*WOW*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04331

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION  
OF A CERTAIN LICENSE AND CONCESSION AGREEMENT  
WITH SILVER STATE HELICOPTERS, LLC.**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Director of Aviation to execute for and on behalf of the Board that certain License and Concession Agreement between the Port and **SILVER STATE HELICOPTERS, LLC**, for approximately 22,142 square feet of office/classrooms, hangar and paved parking in and adjacent to Port Building L-810 (Hangar 8 - Bay "A"), North Airport, Oakland, California, for use of the operation of a helicopter pilot training school, at the rate proposed and as more fully described in Agenda Report Item A-1, dated December 7, 2004; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Guidelines, Article 19, Section 15300.4 and Class 1 of Guidelines Section 15301(p); and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on December 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Kiang,  
Protopappas and President Scates - 5

Noes: None

Absent: Commissioners Katzoff and Kramer - 2

RVA

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04332**

**RESOLUTION FINDING AND DETERMINING THAT IT IS IN THE BEST INTEREST OF THE PORT TO CONTRACT FOR FURNISHING LABOR AND EQUIPMENT FOR ON-CALL MATERIAL CRUSHING SERVICES FOR THE PERIOD COMMENCING FEBRUARY 1, 2005 AND ENDING DECEMBER 31, 2005, 2006, 2007, 2008 OR 2009, IN AN AMOUNT NOT TO EXCEED \$1,000,000 OVER THE 5-YEAR PERIOD, WITHOUT LOWEST-SEALED BID PROCEDURES AND AUTHORIZING EXECUTION OF A CONTRACT FOR SUCH WORK BASED ON RECEIPT OF INFORMAL PROPOSALS.**

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**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the development and use provided for in the plans and specifications approved by this resolution are in conformity with the General Plan of the City; and be it

**FURTHER RESOLVED** that the Director of Engineering or his designee is authorized to approve the plans and specifications for said projects in advance of construction, pursuant to Government Code Section 830.6; and be it

**FURTHER RESOLVED** that based upon the information contained in Board Agenda Report Item No. A-2, dated December 7, 2004 (herein the "Agenda Report"), the Board hereby finds and determines that it is in the best interest of the Port to accomplish the **Furnishing Labor and Equipment for On-Call Material Crushing Services for the Period Commencing February 1, 2005, and Ending December 32, 2005, 2006, 2007, 2008 or 2009, Oakland, California** without lowest-sealed bid procedures and that said lowest-sealed bid procedures are hereby waived; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of a contract for **Furnishing Labor and Equipment for On-Call Material Crushing Services for the Period Commencing February 1, 2005, and Ending December 32, 2005, 2006, 2007, 2008 or 2009, Oakland, California**, based

upon the receipt of informal proposals, in an amount not to exceed \$1,000,000 over the 5-year period; and be it

**FURTHER RESOLVED** that this project will be covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA"); and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that dispensing with standard bidding procedures for this project will not result in any physical change in the environment, therefore it is exempt from the California Environmental Quality Act (CEQA) pursuant to Section 15061(b)(3). When specific activities that will be performed using those services are identified, staff will determine at that time whether additional CEQA review and clearance is needed. The Board adopted the Initial Study/Mitigated Declaration (IS/MND) on September 7, 2004 and a Notice of Determination was filed with the Alameda County Clerk on September 8, 2004, as described in the Agenda Report. The Draft IS/MND included a mitigation measure which the Port has incorporated into a mitigation monitoring and reporting program (MMRP) for the MMP; and be it;

**FURTHER RESOLVED** that, pursuant to Port Ordinance 1606, Section 22, the Board finds and determines it to be in the Port's best interest to delegate to the Executive Director, and hereby delegates to the Executive Director, the authority to finally resolve bid protests in connection with this project; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At the regular meeting held on December 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Kiang,  
Protopappas and President Scates - 5

Noes: None

Absent: Commissioners Katzoff and Kramer - 2

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04333**

**RESOLUTION FINDING AND DETERMINING THAT A PROPOSED SIXTH SUPPLEMENTAL AGREEMENT WITH ASC, AT A MAXIMUM ADDITIONAL COMPENSATION OF \$210,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID SUPPLEMENTAL AGREEMENT.**

**WHEREAS** by Resolution No. 99235, adopted by the Board of Port Commissioners (the "Board") on and as amended by the First Supplemental Agreement dated August 21, 2000, Second Supplemental Agreement dated December 22, 2000, Third Supplemental Agreement dated April 24, 2001, Fourth Supplemental Agreement dated March 28, 2003 and Fifth Supplemental Agreement dated January 12, 2004, the Board authorized an Agreement with **ASC, a joint venture consisting of The Allen Group, LLC, Jacobs Civil, Inc. and Cooper Pugeda Management, Inc. ("ASC")**, for consulting services with respect to engineering services during construction for the Airport Roadway Project; and

**WHEREAS** it is desirable at this time to further amend said Agreement to authorize the Executive Director of the Port to approve additional work under said Agreement as set forth in Agenda Sheet Item No. A-3, dated December 7, 2004 (herein the "Agenda Sheet"), and additional compensation for such work; now, therefore, be it

**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the proposed Sixth Supplemental Agreement with **ASC** 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 **ASC** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said Sixth Supplemental Agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **ASC** shall be compensated for such services including costs of miscellaneous reimbursable expenses at a maximum compensation that shall not exceed an additional \$210,000; and be it



**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At the regular meeting held on December 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Kiang,  
Protopappas and President Scates - 5

Noes: None

Absent: Commissioners Katzoff and Kramer - 2

12/07/04  
C-1  
VON:mj

*now*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04334**

**RESOLUTION INSTRUCTING PORT STAFF  
REGARDING RENTAL RATES AND TERMS TO  
BE NEGOTIATED WITH EXISTING OR  
PROSPECTIVE LICENSEES OR CERTAIN  
COMMERCIAL REAL ESTATE PROPERTIES.**

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**RESOLVED** that in accordance with Article III, Section 6 of the By-laws and Administrative Rules of the Board of Port Commissioners, this Board does hereby direct the Executive Director and other involved Port staff members to proceed with negotiations with existing or prospective licensees of License and Concession agreements for terms of one (1) year or less on the properties listed on Exhibit "A", attached hereto and by reference made a part hereof, in accordance with the instructions of the Board in its closed session on December 7, 2004, convened pursuant to Section 54956.8 of the Government Code; and

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act and the Port CEQA Guidelines pursuant to Class 1 of Guidelines Section 15301(p).

At the regular meeting held on December 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Kiang,  
Protopappas and President Scates - 5

Noes: None

Absent: Commissioners Katzoff and Kramer - 2

**BOARD OF PORT COMMISSIONERS MEETING 12/7/04  
FOR DISCUSSION IN CLOSED SESSION  
2004 LICENSE AND CONCESSION AGREEMENTS**

TENANT	LOCATION
1) Potomac Association	540 Water Street - Port Bldg. F-113
2) Boatel Inc. – meeting rooms, banquet office, gift shop	473 & 479 & 493 Water Street - Port Bldg. F-114
3) CEP – JLS1 LLP	481 Water Street - Port Bldg. F-114
4) AFI Marketing (fire exit lane)	2 <sup>nd</sup> & Webster Street
5) Heinold's First & Last Chance	56 Jack London Square – Port Bldg. F-203
6) IL Pescatore Restaurant (Storage)	2 Webster Street – Port Bldg. F-101
7) Van Matre Lumber Company	251 Fifth Avenue – Port Bldg. F-203
8) Golden State Diesel Marine	351 Embarcadero – Port Bldg. G-309
9) KTVU, Inc.	295 Fifth Avenue - Port Bldg. H -108
10) Jal Vue Window Company	295 Sixth Street - Port Bldg. H -101 & adjacent Industrial Land
11) Philbrick Boatworks	603 Embarcadero – Port Bldg. H -103
12) Thunderbird Properties	400 Sixth Avenue – Port Bldg. H -110
13) Ship Shape Marine	280 Sixth Avenue – Port Bldg. H -112
14) J.W. Silveira	Water Area at the foot of Fifth Avenue
15) Crowley Marine Services	Ninth Avenue Terminal – Wharf Area
16) Concept Marine	1853 Embarcadero – Port Bldg. J-120
17) B & R Roofing Company	2100 Embarcadero – Port Bldg. J-313
18) Athens Bakery	Vacant Land on Embarcadero adjacent to Port Bldg. J-321
19) Oakland Fire Dept. Historical Society	2400 Embarcadero – Port Bldg. J-321
20) Park Tilden Corporation	2400 Embarcadero - Port Bldg. J-321

*Handwritten initials*

December 7, 2004  
M-1  
TDC/aaa *Joc*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04335**

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION  
OF A RIGHT-OF-ENTRY AND INDEMNITY AGREEMENT WITH  
THE EAST BAY REGIONAL PARK DISTRICT ("EBRPD").**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves and authorizes the Executive Director to execute for and on behalf of the Board a Right-of-Entry and Indemnity Agreement between the Port and EBRPD, for access to the "Radio Beach" area to control, map, and monitor an invasive species, *Spartina alterniflora*, for the period commencing December 8, 2004, and terminating on December 7, 2005, all in accordance with Agenda Report No. M-1, dated December 7, 2004; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an right of entry and indemnity agreement in accordance with the terms of this resolution. Unless and until a separate written right of entry and indemnity agreement 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 other contracting party, there shall be no valid or effective right of entry and indemnity agreement.

At the regular meeting held on December 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Kiang,  
Protopappas and President Scates - 5

Noes: None

Absent: Commissioners Katzoff and Kramer - 2

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04336

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED FIRST SUPPLEMENTAL AGREEMENT WITH 2PLUS2 PARTNERS, INC. AT AN ADDITIONAL MAXIMUM COMPENSATION OF \$12,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.

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**WHEREAS** by Resolution No. 03032, adopted by the Board of Port Commissioners (the "Board") on February 4, 2003, the Board authorized an Agreement with **2PLUS2 PARTNERS, INC.**, for consulting services with respect to development of an Online Permit Program for hazardous material for the Port's Maritime Division; and

**WHEREAS** it is desirable at this time to further amend said Agreement to authorize the Executive Director of the Port to approve additional work under said Agreement as set forth in Agenda Sheet Item No. M-2, dated December 7, 2004 (herein the "Agenda Sheet"), and additional compensation for such work; now, therefore, be it

**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the proposed First Supplemental Agreement with **2PLUS2 PARTNERS, INC.** 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 **2PLUS2 PARTNERS, INC.** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said First Supplemental Agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **2PLUS2 PARTNERS, INC.** shall be compensated for such services including costs of miscellaneous reimbursable expenses at a maximum compensation that shall not exceed an additional \$12,000; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At the regular meeting held on December 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Kiang,  
Protopappas and President Scates - 5

Noes: None

Absent: Commissioners Katzoff and Kramer - 2

2004

12/07/04  
Item No.: M-3  
CHA/arg *CH*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04337

RESOLUTION FINDING AND DETERMINING THAT IT IS IN THE BEST INTEREST OF THE PORT TO CONTRACT FOR ANNUAL DREDGING AND BERTH DEEPENING OF PORT OF OAKLAND BERTHS FOR THE PERIOD COMMENCING JULY 1, 2005 AND ENDING JUNE 30, 2006, 2007 OR 2008, IN AN AMOUNT NOT TO EXCEED \$3,100,000 OVER THE 3-YEAR PERIOD, WITHOUT LOWEST-SEALED BID PROCEDURES AND AUTHORIZING EXECUTION OF CONTRACT(S) FOR SUCH WORK BASED ON RECEIPT OF INFORMAL PROPOSALS.

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**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the development and use provided for in the plans and specifications approved by this resolution are in conformity with the General Plan of the City; and be it

**FURTHER RESOLVED** that the Director of Engineering or his designee is authorized to approve the plans and specifications for said projects in advance of construction, pursuant to Government Code Section 830.6; and be it

**FURTHER RESOLVED** that based upon the information contained in Board Agenda Report Item No. M-3, dated December 7, 2004 (herein the "Agenda Report"), the Board hereby finds and determines that it is in the best interest of the Port to accomplish the **Annual Dredging and Berth Deepening of Port of Oakland Berths for the Period Commencing July 1, 2005, and Ending June 30, 2006, 2007 or 2008, Oakland, California** without lowest-sealed bid procedures and that said lowest-sealed bid procedures are hereby waived; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of no more than two contracts for **Annual Dredging and Berth Deepening of Port of Oakland Berths for the Period Commencing July 1, 2005, and Ending June 30, 2006, 2007 or 2008, Oakland, California**, based upon the receipt of informal proposals, in an amount not to exceed \$3,100,000

over the 3-year period, \$1,700,000 got the first year, and \$700,000 for each additional year; and be it

**FURTHER RESOLVED** that this project will be covered by the provisions of the Maritime and Aviation Project Labor Agreement ("MAPLA"); and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Port CEQA Guidelines, Section 15304(g), which exempts minor alterations to land, including specifically "maintenance dredging where the spoil is deposited in a spoil area authorized by all applicable state and federal regulatory agencies. Disposal of berth maintenance dredging material from the Port's berths and marinas will take place at authorized disposal sites. When specific activities that will be performed using those services are identified, staff will determine at that time whether additional CEQA review and clearance is needed.

Berth deepening to -50 feet was evaluated pursuant to CEQA under the Oakland Harbor Navigation Improvement (50 Foot) Project EIS/EIR. This joint document was prepared by the U.S. Army Corps of Engineers, San Francisco District, and the Port of Oakland in 1998. The EIR and the Mitigation Monitoring and Reporting Program (MMRP) were certified by the Board on February 1, 2000 (Resolution No. 20049). A Record of Decision was signed by the U.S. Army Corps of Engineers on October 8, 1999. Berth deepening design and contracts shall include applicable mitigation measures from the -50 Foot Project MMRP; and be it;

**FURTHER RESOLVED** that, pursuant to Port Ordinance 1606, Section 22, the Board finds and determines it to be in the Port's best interest to delegate to the Executive Director, and hereby delegates to the Executive Director, the authority to finally resolve bid protests in connection with this project; and be it

**FURTHER RESOLVED** that this resolution is not evidence of and does not create or constitute (a) a contract(s), 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. 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 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(s).

At the regular meeting held on December 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Kiang,  
Protopappas and President Scates - 5

Noes: None

Absent: Commissioners Katzoff and Kramer - 2

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04338**

**RESOLUTION APPROVING AN INCREASE IN THE EXECUTIVE DIRECTOR'S WHOLESALE ELECTRIC POWER PURCHASE AUTHORITY, AND APPROVING AND AUTHORIZING EXECUTION OF AGREEMENT TO SELL POWER TO THE DREDGING CONTRACTOR FOR THE OAKLAND HARBOR NAVIGATION IMPROVEMENT (50-FOOT) DEEPENING PROJECT, INNER AND OUTER HARBOR DREDGING, PHASE 3B (OUTER HARBOR) AND 3C (INNER HARBOR) ("50-FOOT PROJECT").**

**RESOLVED** that the Board of Port Commissioners ("Board") hereby finds and determines that the project which includes the approval and authorizations below in this resolution is categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the State and Port CEQA Guidelines Sections 15061(a)(3) and 15301; and be it

**FURTHER RESOLVED** that based upon the information contained in Board Agenda Report M-4 dated December 3, 2004 ("Agenda Report"), the Board hereby approves and authorizes, in connection with providing electric energy to **GREAT LAKES DREDGE AND DOCK COMPANY** ("Great Lakes") for use by Great Lakes in carrying out its contract with the United States Government awarded August 18, 2004, for Phase 3B and 3C of the Inner and Outer Harbor under the 50-foot Deepening Project, (1) an increase of \$2,220,000 in the present \$3,180,000 amount of the Executive Director's authorization under Port Resolution No. 04124, passed May 4, 2004, to purchase wholesale electric energy for delivery to the Port's harbor facilities for the period January 1, 2005, to December 31, 2010, inclusive, for a new total purchase authority of \$7,470,000, and (2) an increase of \$960,000 (a total and not a per year increase) in the present \$270,000 per year amount of the Executive Director's authorization under Port Resolution No. 04124, for contracts for ancillary services related to such wholesale electric energy to be provided to Great Lakes, provided that the Board's approval and authorization with respect to providing electric energy for the Oakland Army Base under Port Resolution No. 04282, passed October 5, 2004, is separate from and independent of the Board's approval and authorization under Resolution No. 04124, as modified by this resolution; and be it

**FURTHER RESOLVED** that the Board hereby approves and authorizes the Executive Director for and on behalf of the Board to enter into an agreement with Great Lakes, for the Port to supply the required electric power to Great Lakes to carry out Great Lakes' said contract with the United States Government; and be it

**RESOLVED** that 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. This resolution approves and authorizes the execution of agreements in accordance with the terms of this resolution. Unless and until separate written agreements are duly executed on behalf of the Board as authorized by this resolution, are signed as approved as to form and legality by the Port Attorney, and are delivered to other contracting party, there shall be no valid or effective agreements.

At the regular meeting held on December 7, 2004

At Passed by the following vote. meeting held

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Kiang,  
Protopappas and President Scates - 5

Ayes:  
Noes: None

Absent: Commissioners Katzoff and Kramer - 2  
Noes:

Absent:

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04339**

**RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH CASH & ASSOCIATES FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.**

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**RESOLVED** that based upon the information contained in Board Agenda Sheet Item No. **M-5**, dated **December 7, 2004** (herein the "Agenda Sheet"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with **CASH & ASSOCIATES** for **Preliminary planning and design of Berths 32-34 Yard improvements, Outer Harbor** 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 **CASH & ASSOCIATES** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **CASH & ASSOCIATES** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed an amount to be certified by the Board in closed session; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on December 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Kiang,  
Protopappas and President Scates - 5

Noes: None

Absent: Commissioners Katzoff and Kramer - 2

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04340**

**RESOLUTION FINDING AND DETERMINING THAT A PROPOSED SECOND SUPPLEMENTAL AGREEMENT WITH LIFTECH CONSULTANTS, INC. AT A MAXIMUM COMPENSATION OF \$365,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF SAID SUPPLEMENTAL AGREEMENT.**

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**WHEREAS** by Resolution No. 98100, adopted by the Board of Port Commissioners (the "Board") on March 10, 1998 and as amended by the First Supplemental Agreement dated June 8, 2004, the Board authorized an Agreement with **LIFTECH CONSULTANTS, INC.**, for consulting services with respect to engineering design services in connection with the design of Berths 32/33 Wharf Rehabilitation; and

**WHEREAS** it is desirable at this time to further amend said Agreement to authorize the Executive Director of the Port to approve additional work under said Agreement as set forth in Agenda Sheet Item No. M-6, dated December 7, 2004 (herein the "Agenda Sheet"), and additional compensation for such work; now, therefore, be it

**RESOLVED** that the Board of Port Commissioners hereby finds and determines that the proposed Second Supplemental Agreement with **LIFTECH CONSULTANTS, INC.** 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 **LIFTECH CONSULTANTS, INC.** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said Second Supplemental Agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **LIFTECH CONSULTANTS, INC.** shall be compensated for such services including costs of miscellaneous reimbursable expenses at a maximum compensation that shall not exceed an additional \$365,000; and be it

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At the regular meeting held on December 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Kiang,  
Protopappas and President Scates - 5

Noes: None

Absent: Commissioners Katzoff and Kramer - 2

*dm*

12/7/04  
0-2  
RCM/ps  
  
*dm*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

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RESOLUTION NO. 04341

RESOLUTION FINDING AND DETERMINING THAT IT IS IN THE BEST INTEREST OF THE PORT TO AWARD A CONTRACT TO PITNEY BOWES FOR A MAILING SYSTEM LEASE AND ANNUAL MAINTENANCE, WITHOUT COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF CONTRACT.

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**RESOLVED** that based upon the information contained in Board Agenda Report Item No. 0-2, dated December 7, 2004, ("Agenda Report") the Board of Port Commissioners ("Board") hereby finds and determines that it is in the best interest of the Port to enter into an agreement with Pitney Bowes, without competitive bidding and that said competitive bidding is hereby waived; and be it

**FURTHER RESOLVED** that the Board hereby approves and authorizes the Executive Director to negotiate and execute a contract with Pitney Bowes for a mailing system and annual maintenance, a total cost not to exceed \$107,360.00, upon terms and conditions consistent with said Agenda Report; and be it

**FURTHER RESOLVED** that the provisions of the Port of Oakland Maritime and Aviation Project Labor Agreement ("MAPLA") do not apply to this equipment purchase; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines, Section 15061(b)(3), as it can be seen with certainty that there is no possibility that the purchase of the RIB will result in a physical change in the environment; and be it

**FURTHER RESOLVED** that this resolution is not evidence of and does not create or constitute (a) a contract(s), or the grant of any right, entitlement or property interest, or (b) any obligation of liability on the part of the Board or any officer or employee of the Board. 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 as approved as to form and legality by the Port Attorney, and is delivered to the other contracting party, there shall be no valid or effective agreement(s).

At the regular meeting held on December 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Kiang,  
Protopappas and President Scates - 5

Noes: None

Absent: Commissioners Katzoff and Kramer - 2



12/7/04  
Item: O-3  
MCP:mj

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04342

**RESOLUTION TERMINATING CERTAIN APPOINTMENT**

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**RESOLVED** that the appointment of Employee No. 387225 to the position of Custodian, be and the same hereby is terminated, effective the close of work day of December 8, 2004, for cause.

At the regular meeting held on December 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Kiang,  
Protopappas and President Scates - 5

Noes: None

Absent: Commissioners Katzoff and Kramer - 2

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04343**

**RESOLUTION APPROVING AND AUTHORIZING EXECUTION OF  
VARIOUS AMENDMENTS TO THE GREAT WEST LIFE  
ADMINISTRATIVE AGREEMENT AND RELATED AGREEMENTS  
REGARDING THE PORT'S DEFERRED COMPENSATION PLAN AND  
ADOPTION OF CERTAIN AMENDMENTS TO THE DEFERRED  
COMPENSATION PLAN.**

**RESOLVED** that the Executive Director be and he hereby is authorized to execute subsidiary investment agreements for and on behalf of the Board of Port Commissioners and various amendments to the Great West Life Administration Agreement, and related agreements, in connection with the Port's Deferred Compensation Plan, as more fully set forth in Agenda Report Item 0-4, dated December 7, 2004, provided that the form of such agreements is acceptable to the Executive Director and the Port Attorney, and that the Executive Director and Port Attorney are hereby authorized and directed to take such other actions and execute such other documents as may be necessary to implement such changes; and be it

**FURTHER RESOLVED** that the Restated Deferred Compensation Plan of the Port of Oakland ("Plan"), is hereby amended by adding the following sentence to the end of Section 2.75:

"Compensation may include accumulated sick pay, vacation pay or back pay that is paid while a Participant is employed by Employer or during the last month that the Participant is employed by the Employer. Compensation shall not include any accumulated sick pay, vacation pay or back pay that is paid after the end of the month in which a Participant's employment terminates";

and be it

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**FURTHER RESOLVED** that the Plan is further amended by adding the following sentence added to the end of the first paragraph in Section 7.6(a):

"The need to pay for the funeral expenses of the Participant's spouse or dependent (as defined in Code Section 152(a)) or the need to pay for medical expenses, including non-refundable deductibles and cost of prescription drug medication, may constitute an unforeseeable emergency";

and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At the regular meeting held on December 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kramer - 1



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04344

**RESOLUTION AUTHORIZING THE REVISION OF  
INSURANCE REQUIREMENTS FOR EMPLOYEE CAR  
ALLOWANCES**

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**RESOLVED** that the Board of Port Commissioners hereby authorizes the Port's Risk Manager on behalf of the Board to revise resolutions 24244 and 23936 to remove any insurance requirements as described in Agenda Sheet Item No. 0-5, dated December 7, 2004.

At the regular meeting held on December 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kramer - 1

WON

12/7/04  
Item No.: 0-6  
RCM/ps  
*[Signature]*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04345**

RESOLUTION FINDING AND DETERMINING THAT CERTAIN MOTOR VEHICLES AND EQUIPMENT OWNED BY THE PORT ARE NO LONGER REQUIRED FOR PORT USE AND AUTHORIZING THE EXECUTIVE DIRECTOR TO SELL SAID SURPLUS VEHICLES AND EQUIPMENT, THAT IT IS IN THE BEST INTEREST OF THE PORT TO PURCHASE NEW VEHICLES AND EQUIPMENT WITHOUT COMPETITIVE BIDDING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO PURCHASE SAME THROUGH STATE CONTRACT, COOPERATIVE AGREEMENT OR OPEN MARKET PROCUREMENT.

\_\_\_\_\_

**RESOLVED** that certain vehicles and equipment, as more fully described in Agenda Report Item No. 0-6 dated December 7, 2004 ("Agenda Report"), are inadequate, obsolete or worn out within the meaning of Section 12 of Port Ordinance No. 1606 and Section 5.13(a) of the Master Trust Indenture by and between the Port and First Trust of California, as Trustee; and be it

**FURTHER RESOLVED** that the Executive Director hereby is authorized, accordingly, to sell at auction or private sale for the highest bidder and best bid therefor after the receipt of informal bids, such surplus vehicles and equipment as the Executive Director determines to be appropriate; and be it

**FURTHER RESOLVED** that the Executive Director be and he is hereby authorized to execute any necessary Bill of Sale and other appropriate documents in connection therewith, provided that such documentation shall be approved as to form and legality by the Port Attorney; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that it is in the best interest of the Port to purchase certain new vehicles and equipment as more fully described in the Agenda Report without competitive bidding; and be it

**FURTHER RESOLVED** that the Executive Director is hereby authorized for and on behalf of this Board to procure said vehicles and equipment at a cost of approximately \$1,200,070, plus taxes and fees, through state contract, cooperative agreement with other public entities or through open market procurement, provided, however, that the contract(s) for said procurement, whether with the State of California or otherwise, shall be approved as to form and legality by the Port Attorney.

At the regular meeting held on December 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kramer - 1

*Sal*

12/7/04  
Item 0-7  
RCM/ps  
*RCM*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**RESOLUTION NO. 04346**

**RESOLUTION FINDING CERTAIN ACCOUNTS RECEIVABLE TO BE  
UNCOLLECTIBLE AND APPROVING THE CHIEF FINANCIAL  
OFFICER TO WRITE OFF SAME FROM THE BOOKS OF THE PORT.**

**WHEREAS**, there are certain accounts receivable on the books of the Port of Oakland which are at present uncollectible for the following reasons: (i) dispute as to amount due, together with the absence of sufficient proof to recover; (ii) financial inability to pay by certain tenants; and (iii) other reasons as set forth in that certain Agenda Report item 0-7 from the Port Attorney, dated December 7, 2004; and

**WHEREAS**, for the foregoing reasons it is the opinion of the Port Attorney that said accounts receivable do not represent accounts receivable which the Port has a present expectation of receiving the revenue represented thereby, and therefore, may be written off the books of the Port of Oakland; now, therefore, be it

**RESOLVED** that upon the recommendation of the Port Attorney and the Chief Financial Officer, the Board of Port Commissioners hereby finds that these accounts receivable are determined to be uncollectible, and approves the Chief Financial Officer to write these accounts off the books of the Port of Oakland as of October 31, 2004; and be it

**FURTHER RESOLVED** that notwithstanding the cancellation of said account, the Port Attorney is hereby authorized by and on behalf of this Board to take such action as may be appropriate, including, but not limited to, placement of the account (s) with a collection agency and/or filing suit to effect the collection thereof.

At the regular meeting held on December 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kramer - 1

*now*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04347

**RESOLUTION APPROVING BUILDING PERMIT  
REQUESTED BY YOUR BLACK MUSLIM BAKERY.**

**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **YOUR BLACK MUSLIM BAKERY** ("tenant") for permission to perform certain work at 1 Airport Drive, Terminal 2, Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$40,000, said work and the conditions of Port approval being the following:

- 1) Installation of counters, cabinetry, food service equipment and finishes;
- 2) Related electrical and mechanical work;
- 3) Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Class 1 of Guidelines Section 15301(a); and be it



**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At the regular meeting held on December 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kramer - 1

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04348

**RESOLUTION    APPROVING    BUILDING    PERMIT  
REQUESTED BY ALASKA AIRLINES, INC.**

**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **ALASKA AIRLINES, INC.** ("tenant") for permission to perform certain work at 1 Airport Drive, Terminal 1, (M101 and M103), Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$35,000, said work and the conditions of Port approval being the following:

- 1) Remodeling of the Airline Ticket Office and the Operation Office;
- 2) Related finish electrical and data cabling work;
- 3) Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Class 1 of Guidelines Section 15301; and be it

**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At the regular meeting held on December 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kramer - 1

12/7/04  
S-3  
VON:mj

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04349

**RESOLUTION APPROVING BUILDING PERMIT  
REQUESTED BY KINDER MORGAN ENERGY PARTNERS  
L.P.**

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**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **KINDER MORGAN ENERGY PARTNERS L.P.** on behalf of SFPP, L.P., a Delaware limited partnership ("tenant") for permission to perform certain work at area of Dike Road, adjacent to Runway 11-29, Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$31,000, said work and the conditions of Port approval being the following:

- 1) Installation of a replacement corrosion protection system for the Multi Fuels Pipeline that runs under San Francisco Bay;
- 2) Execution of a Right-of-Entry and Indemnity Agreement ("Right-of-Entry") by tenant and the Port granting tenant and tenant's contractors the right to enter upon the Premises described in said Right-of-Entry;
- 3) Compliance with all of the terms and conditions of the Right-of-Entry;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines pursuant to Class 3 of Guidelines Section 15303, Class 11 of Guidelines Section 15311 and to Section 15269; and be it

**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At the regular meeting held on December 7, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kramer - 1



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**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04350

RESOLUTION AUTHORIZING ACCEPTANCE OF REGULATORY PERMITS, INCLUDING PERMIT CONDITIONS, FOR CONSTRUCTION OF WHARF AND EMBANKMENT STRENGTHENING PROGRAM AND DEEPENING AT BERTHS 23-26, 30 AND 67-68, AND DEEPENING AT BERTH 22; AND AUTHORIZING THE EXECUTIVE DIRECTOR OR HIS DESIGNEE TO IMPLEMENT SAID PERMIT CONDITIONS.

**RESOLVED** that the Board of Port Commissioners ("Board") hereby approves acceptance of regulatory permit(s) from San Francisco Regional Water Quality Control Board ("RWQCB) and authorizes the Executive Director or his Designee to commit to the fulfillment and implementation of all obligations associated with said regulatory authorizations issued for the Wharf and Embankment Strengthening Program ("WESP") at Berths 23-26, 30 and 67-68, to stabilize embankment and make wharf structural modifications to accommodate future deepening of the berths including Berth 22 to -50 feet MLLW; and be it

**FURTHER RESOLVED** that the Board hereby authorizes approval of acceptance of regulatory permit(s) from the San Francisco Bay Conservation and Development Commission ("BCDC") and U.S. Army Corp s of Engineers ("Corps") by the Executive Director or his Designee, for and on behalf of the Board, and authorizes the Executive Director or his Designee to commit to the fulfillment and implementation of all obligations associated with said regulatory authorizations that are issued for the WESP including regulatory authorizations that are issued to accommodate future deepening of said berths including Berth 22 -50 feet MLLW; and be it

**FURTHER RESOLVED** that the Board hereby finds and determines, as set forth in Agenda Report Item M-1 dated December 21, 2004, that the Board evaluated the project pursuant to the California Environmental Quality Act ("CEQA") under the "Oakland Harbor Navigation Improvement (-50 Foot) Project EIS/EIR, including the WESP mitigation measure set forth in said Project EIS/EIR, certified the EIR on February 1, 2000, by Board Resolution No. 20049, that a Record of Decision was signed by the Corps on October 8, 1999, and that refinements in design and

mitigation measures were evaluated in the First Addendum approved on July 18, 2000 by Board Resolution No. 20281; and be it

**FURTHER RESOLVED** that the location and custodian of the documents or other material which constitute the record of proceedings upon which the Board's decision is based respectively are 530 Water Street, Oakland, California, and the Secretary of the Board; and be it

**FURTHER RESOLVED** that 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; and be it

**FURTHER RESOLVED** that this resolution approves and authorizes the acceptance of regulatory permits, including implementation of permit conditions and execution of related agreements with applicable regulatory agencies, in accordance with the terms of this resolution. Unless and until a separate written permit and/or agreement 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 other contracting or permitting party, there shall be no valid or effective agreement or permit.

At the regular meeting held on December 21, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kramer - 1



**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04351

RESOLUTION FINDING AND DETERMINING THAT A PROPOSED AGREEMENT WITH ROBERT E. RILEY AT A MAXIMUM COMPENSATION OF \$60,000 FOR CONSULTING SERVICES CONSTITUTES PROFESSIONAL, TECHNICAL AND SPECIALIZED SERVICES THAT ARE TEMPORARY IN NATURE, WAIVING COMPETITIVE BIDDING AND AUTHORIZING EXECUTION OF AGREEMENT.

**RESOLVED** that based upon the information contained in Board Agenda Report Item No. M-2, dated December 21, 2004 (herein the "Agenda Report"), the Board of Port Commissioners hereby finds and determines that the proposed agreement with **ROBERT E. RILEY** for **Maritime training programs consulting services** 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 **ROBERT E. RILEY** without competitive bidding; and be it

**FURTHER RESOLVED** that the Board of Port Commissioners hereby approves and authorizes the execution for and on behalf of the Board of said agreement, upon terms and conditions consistent with the Agenda Sheet and providing that **ROBERT E. RILEY** shall be compensated for such services, including costs of miscellaneous reimbursable expenses, at a maximum compensation that shall not exceed \$60,000, unless additional work up to an additional amount of \$12,000 is approved in writing by the Executive Director; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement 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 other contracting party, there shall be no valid or effective agreement.

At the regular meeting held on December 21, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kramer - 1

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**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04352

RESOLUTION RATIFYING RENTAL OF CERTAIN MODULAR BUILDINGS FROM MOBILE MODULAR BUILDINGS, INC. AND DESIGN SPACE MODULAR BUILDING, INC., APPROVING AND AUTHORIZING REIMBURSEMENT OF MODULAR OFFICE BUILDING RENTAL COSTS INCURRED BY STEVEDORE SERVICES OF AMERICA TERMINALS ("SSAT"), AND APPROVING AND AUTHORIZING PURCHASE OF MODULAR BUILDINGS, WITHOUT COMPETITIVE BIDDING, FOR USE AS A PERMANENT OFFICE COMPLEX BY STEVEDORE SERVICES OF AMERICA TERMINALS.

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**RESOLVED** that the Board of Port Commissioners ("Board") does hereby ratify rental of certain modular buildings from MOBILE MODULAR BUILDINGS, INC., and DESIGN SPACE MODULAR BUILDINGS, INC., (hereinafter "Modular Office Building Vendors") to support Stevedore Services of America Terminals office complex needs as more fully described in Agenda Sheet Item No. M-3, dated December 21, 2004 ("Agenda Report"), and authorizes and approves rental payments to said vendors totaling \$48,494.49; and be it

**FURTHER RESOLVED** that the Board does hereby authorize and approve payment of \$18,671.26 to reimburse SSAT for rental cost of modular buildings from said Modular Office Building Vendors, as further described in said Agenda Report; and be it

**FURTHER RESOLVED** that the Board does hereby find and determine that it is in the best interest of the Port to purchase said modular buildings, without competitive bidding, and said competitive bidding is hereby waived; and be it

**FURTHER RESOLVED** that this Board does hereby authorize the Executive Director for and on behalf of this Board to procure said buildings from said Modular Building Vendors, on the open market, for a purchase amount of approximately \$333,827; and be it

**FURTHER RESOLVED** that 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. 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.

At the regular meeting held on December 21, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kramer - 1

*SM*

12/21/04  
S-1  
VON:mj *WOW*

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

RESOLUTION NO. 04353

**RESOLUTION APPROVING BUILDING PERMIT  
REQUESTED BY UNICOLD CORPORATION.**

**RESOLVED** that in reliance upon the representations and certifications set forth upon and submitted with an application by **UNICOLD CORPORATION** ("tenant") for permission to perform certain work at 555 Maritime Street, D516, Oakland, California, the Board of Port Commissioners hereby approves same subject to said representations and certifications at an estimated cost of \$15,000, said work and the conditions of Port approval being the following:

- 1) Installation of reinforced concrete pads to better support the load of cargo containers stored at this facility;
- 2) Compliance with all of the terms and conditions of tenant's lease or agreement with the Port of Oakland;

and be it

**FURTHER RESOLVED** that the Board hereby finds and determines that this project has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) and the Port CEQA Guidelines; and be it

**FURTHER RESOLVED** that (a) neither this resolution nor the Board's approval of said work (i) is a waiver by the Board of any Port right or remedy with respect to tenant under any agreement between the Port and tenant or with respect to any obligation of tenant, or (ii) releases tenant from any obligation with respect to said work or with respect to any agreement between the Port and tenant and (b) this resolution is not evidence of and does not create or constitute (i) a contract, or the grant of any right (other than to perform the work subject to the provisions of this resolution), entitlement or property interest, or (ii) any obligation or liability on the part of the Board or any officer or employee of the Board.

At the regular meeting held on December 21, 2004

Passed by the following vote:

Ayes: Commissioners Ayers-Johnson, Batarse, Katzoff,  
Kiang, Protopappas and President Scates - 6

Noes: None

Absent: Commissioner Kramer - 1