




MEMORANDUM

December 10, 2021

TO: MEMBERS, PORT COMMISSION
Hon. Kimberly Brandon, President
Hon. Willie Adams, Vice President
Hon. John Burton
Hon. Gail Gilman
Hon. Doreen Woo Ho

FROM: Elaine Forbes
Executive Director 

SUBJECT: Resolution authorizing the Executive Director to Amend the Feasibility Cost Sharing Agreement (FCSA) with the United States Army Corps of Engineers (USACE) for the San Francisco Coastal Flood Study (Study) to Extend the Term by an Additional 50 Months, Increase Port's Share of the Cost of the Study by up to an Additional \$5 Million, and Allow the Port to Provide Accelerated Funds for its Share of the Study Cost.

DIRECTOR'S RECOMMENDATION: Approve the proposed Resolution No. 21-53

EXECUTIVE SUMMARY

Port staff is working with the United States Army Corps of Engineers (USACE) to conduct the San Francisco Waterfront Flood Resiliency Study (Flood Study or Study). The original Feasibility Cost Sharing Agreement (as amended, the "Original FCSA") between USACE and the Port which provides for the 50-50% sharing of Study costs expired on September 9, 2021.

The Assistant Secretary of the Army for Civil Works (ASA-CW) approved a request for an exemption to the time and cost requirements identified in Section 1001(a) of the Water Resources Reform and Development Act of 2014. The ASA-CW approval increases the total study time from 36 months to 86 months and increases the Study cost by an additional \$10 million to a total Study cost of \$16 million. The additional \$10 million in Study costs will be split 50/50 by the USACE and the Port

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as the Non-Federal Sponsor (NFS). See Exhibit 1 for a copy of the memorandum from ASA-CW approving the Rule Exemption.

At its October 12, 2021 meeting¹, the Port Commission approved a resolution authorizing the Port Director to enter into a new fiscal cost sharing agreement in anticipation of the ASA-CW approval described above. Port staff is now returning to the Port Commission to request a repeal of that approval and a new authorization for the following two reasons:

1. The ASA-CW decided that USACE and the Port should amend the Original FCSA rather than enter a new agreement (Port staff had previously been led to believe that a new FCSA would be required by the USACE); and
2. Port staff, in consultation with the City Attorney, realized that no Board of Supervisors approval is required for a new or amended agreement, because the term of the agreement is less than 10 years and Port's total financial commitment under a new or amended agreement will be no more than \$8 million, less than the \$10 million threshold for Board of Supervisors approval under Charter Section 9.118(b).

The attached resolution, if approved by the Port Commission, would authorize the Executive Director to amend the Original FCSA that would increase the total Study cost to \$16 million, extend the Study duration by an additional 50 months (4 years and 2 months beyond the original 3-year term) for a total of 86 months, and allow Port to provide accelerated funds for its share of the Study cost.

STRATEGIC OBJECTIVES

The Port's Waterfront Resilience Program supports the goals of the Port's Strategic Plan as follows:

Engagement

By leading an inclusive stakeholder process to develop a shared vision, goals, and principles for the Embarcadero Seawall Program and Flood Study.

Livability

By increasing the proportion of funds spent by the Port on contract services performed by LBE firms.

Resiliency

By leading the City's efforts to address threats from earthquakes and flood risk through research and infrastructure improvements to the Embarcadero Seawall and adjoining buildings and other infrastructure.

Sustainability

¹ Staff Report:

<https://sfport.com/meetings/san-francisco-port-commission-october-12-2021>

By enhancing the quality of the Bay water and habitat with the improvements, by limiting construction impacts and waste, and by sustainable design and construction best management practices.

Financial Stability

By supporting the Flood Study which has the potential to generate significant federal funding.

BACKGROUND

On June 7, 2018, USACE awarded San Francisco a “new start” study appropriation to commence a General Investigation (GI) feasibility study, which would consider and recommend potential project alternatives that would reduce coastal flood risk along the San Francisco waterfront (the San Francisco Waterfront Flood Resiliency Study, or Flood Study). Following the completion of the GI feasibility report, if USACE recommends and Congress approves a project for implementation, the federal government would pay for approximately two-thirds of the cost of design and construction, and the Port would pay for approximately one-third of the cost.

USACE General Investigations follow a standardized “3x3x3” framework: \$3 million budget, 3-year schedule, 3 levels of USACE review (District, Division, Headquarters).

On August 14, 2018, the Port Commission authorized the Executive Director to enter into the original FCSA (a 3-year, \$3 million Study agreement) with USACE for study of coastal flood resilience on the San Francisco waterfront under the USACE General Investigation program². That agreement was executed on September 9, 2018. In early 2019, the Project Delivery Team (PDT) consisting of Port staff and representatives of the San Francisco District collaborated closely to develop a recommendation for a \$20.3 million Flood Study, reflecting the complexity of the problems along San Francisco’s unique Bay shoreline.

On May 26, 2020, the Port Commission authorized the Executive Director to amend the original FCSA to reflect USACE’s request for waiver of the 3-year, \$3 million restriction on General Investigations to increase the Study budget to \$6 million, and subject to approval by the Board of Supervisors, to \$20.3 million with an extended Study period³. The first amendment to the original FCSA was fully executed on March 2, 2021.

The USACE San Francisco District subsequently submitted a waiver request with a \$20.3 million and 7-year Study schedule to USACE Headquarters. The request was not approved due to Headquarters concerns regarding scope and budget. (Note: a \$20.3

² The August 14, 2018 Port Commission staff report can be found at: <https://sfport.com/file/33969>

³ The May 12, 2020 Port Commission staff report can be found at: <https://sfport.com/meeting/san-francisco-port-commission-may-12-2020-supporting-documents>

The May 26, 2020 Port Commission staff report can be found at: <https://sfport.com/meeting/san-francisco-port-commission-may-26-2020-supporting-documents>

million Study would have required Board of Supervisors approval as Port's share of the cost would exceed \$10 million.)

In March 2020, Major General William H. Graham, Jr., Deputy Commanding General for Civil and Emergency Operations visited the Port of San Francisco and met with President Kimberly Brandon, Port Director Forbes and Port staff and subsequently toured the waterfront.

In July 2020, USACE Headquarters informed the Port that USACE had reassigned the Study from the San Francisco District Office to the Southwestern Division (SWD) of USACE. The SWD team worked closely with Port staff to rescope the Study and developed a new recommendation for an additional \$10 million Study lead by SWD (on top of the \$6 million already expended under the Original FCSA) to be completed within 50 months (on top of the 3 years already dedicated under the Original FCSA).

In July 2020, Lieutenant General Scott Spellmon, 55th Chief of Engineers and Commanding General of the United States Army Corps of Engineers, visited the Port of San Francisco and met with President Kimberly Brandon, Port Director Forbes and Port staff and subsequently toured the waterfront. The visits by Major General Graham and Lt. General Spellmon reinforced the importance the Study to USACE and the nation.

On September 7, 2021, USACE Headquarters approved recommending to the ASA-CW the waiver request for an additional \$10 million (50% federally funded) and an additional 50 months to complete the Study.

On November 18, 2021, ASA-CW approved the Rule Exemption to increase the Study cost by \$10 million to a total Study cost of \$16 million and increased the Study duration by 50 months for a total Study duration of 86 months. Since the Study approved by the ASA CW requires a maximum total Port expenditure of \$8 million and the term of the amended agreement is less than 10 years, staff, in consultation with the City Attorney, has determined that no Board of Supervisors approval of the proposed amendment of the Original FCSA is required under Charter Section 9.118(b) (which requires Board approval of contracts exceeding 10 years or City expenditure in excess of \$10 million).

Resolution 21-53 repeals Port Commission Resolution 21-43 (which authorized the Port Director to execute a new FCSA) and authorizes the Port Director to execute an amendment to the Original FCSA that increases the Study cost by an additional \$10 million (Port's share being capped at \$5 million), increases the time to complete the Study by an additional 50 months, and allows Port to provide accelerated funds for its share of the Study cost.

PORT EXPENDITURES TO DATE

Table 1 below shows Port and USACE expenditures to support the Study as of April 2021.

Table 1: Port and USACE Expenditures

Discipline	Port Expenditures	USACE Expenditures	Subtotal
Plan Formulation	\$36,113	\$774,000	\$810,113
Hydraulics/ Coastal Engineering	\$253,968	\$525,000	\$778,968
Economics	\$474,839	\$184,000	\$658,839
Environmental Planning	\$360,952	\$650,000	\$1,010,952
Stakeholder and Public Engagement	\$39,727		\$39,727
Cultural Resources	\$3,136		\$3,136
Geo Sciences	\$682	\$199,000	\$199,682
Geospatial Information System (GIS)	\$3,149	\$52,000	\$55,149
Civil Design	\$374,428	\$272,000	\$646,428
Urban Design	\$46,358		\$46,358
Cost Engineering	\$131,878	\$25,000	\$156,878
Real Estate		\$17,000	\$17,000
Program and Project Management		\$802,000	\$802,000
Subtotal Direct Expenditures	\$1,725,230	\$3,500,000	\$5,225,230
Port Cash Contribution #1	\$500,000		
Port Cash Contribution #1	\$200,000		
Port Cash Contribution #1	\$290,000		
Total Expenditures	\$2,715,230	\$3,500,000	

The Port and USACE will reconcile expenditures and cash contributions to close out the first \$6 million in the first phase of the Study. The Port's in-kind contributions in Table 1 above and detailed expenditures shown in Exhibit B are based on Port submittals to USACE through April 2021. The Port will have a final work-in-kind submittal covering work from April to July, based on consultant billing to support the Study.

Key Terms of Proposed Amendment

The proposed amendment to the Original FCSA includes the following key elements:

- An increase in the Study budget by \$10 million, above the \$6 million already expended (50% Port funds, 50% federal funds); the Port would be obligated for 50% of the budget increase, or \$5 million.
- An extension of the Study duration by 50 months, extending the initial 3-year study to a total duration of 7 years and 2 months.
- The form of the amendment to the Original FCSA is a standardized USACE model agreement, utilized nationwide.

- An Accelerated Funds Provision, as further described below.

MULTI-HAZARD, MULTI-AGENCY APPROACH

The Course of Action selected by USACE Headquarters and forwarded to the ASA-CW for approval represents a new approach by USACE. USACE is proposing a multi-hazard approach to the Study to examine multiple hazards including earthquakes, coastal storms, tidal flooding and sea level rise. USACE has a goal of identifying other federal agencies for potential partnerships to address these hazards.

Other agencies that could potentially play a role in funding a proposed program include, but are not limited to, the Federal Emergency Management Agency (FEMA), the National Oceanic and Atmospheric Administration, the U.S. Department of Housing and Urban Development (HUD), and the U.S. Department of Transportation. Port and USACE staff continue to research strategies for implementing the multi-hazard, multi-agency approach to the Study, with an eye towards agencies that are slated to receive significant funding under the Bipartisan Infrastructure Bill.

ACCELERATED FUNDS

Under Resolution 20-24, the Port Commission authorized Port staff to add an *accelerated funds clause* to the FCSA. The amendment was never executed because staff intended to add the clause to the final FCSA authorizing the \$20.3 million study which was never approved. Port staff recommend including this clause in the proposed amendment. Inclusion of the Accelerated Funds provision will authorize the Port to advance funding, at Port's risk, to USACE to keep the Study moving forward in the absence of, or in case of delay of needed federal appropriation of funds to the Study. The Accelerated Funds provision reads as follows:

In addition to providing the funds required by paragraph B. of this Article, the Non-Federal Sponsor may provide accelerated funds for immediate use of the Government. The Non-Federal Sponsor understands that use of accelerated funds shall not constitute any commitment by the Government to budget, or the Congress to appropriate, funds for this Study or to match any accelerated funds provided by the Non-Federal Sponsor; that any accelerated funds will be credited toward the Non-Federal Sponsor's cost share only to the extent matching Federal funds are provided; and that the Non-Federal Sponsor is not entitled to any repayment for any accelerated funds obligated by the Government even if the Study ultimately is not completed.

If the Port Commission approves the addition of the accelerated funds clause, any future proposal to advance funding to USACE would be funded through appropriations previously approved by the Port Commission and the Board of Supervisors. Utilizing this clause would also require a matching reduction in local spending to support the Flood Study.

NEXT STEPS

If Resolution 21-53 attached to this report is approved by the Port Commission, the Port Director and USACE will execute the amendment to the Original FCSA on the terms described in this staff report and the Study will recommence.

Prepared by: Daley Dunham, Finance and Legislative Affairs
Manager, Resilience Program

Kelley Capone, USACE Flood Study Project
Manager

Brad Benson, Waterfront Resilience Director

Exhibit 1: Approval Memorandum from the Assistant Secretary of the Army (Civil Works) San Francisco Waterfront Coastal Flood Study, California, Section 1001 (3x3x3 Rule) Exception

Exhibit 2: Breakdown of Port of San Francisco Spending on the USACE Flood Study

Exhibit 1:
Approval Memorandum from the Assistant Secretary of the Army (Civil Works)
San Francisco Waterfront Coastal Flood Study, California, Section 1001 (3x3x3
Rule) Exception



DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
CIVIL WORKS
108 ARMY PENTAGON
WASHINGTON DC 20310-0108

SACW

MEMORANDUM FOR COMMANDING GENERAL U.S. ARMY CORPS OF
ENGINEERS

SUBJECT: San Francisco Waterfront Coastal Flood Study, CA 3x3x3 Rule Exception

1. Reference HQ, USACE, CECW-SPD memorandum (San Francisco Waterfront Coastal Flood Study, CA 3x3x3 Rule Exception), 7 September 21.
2. I am responding to the request that an exemption to the requirement identified in Section 1001(a) of the Water Resources Reform and Development Act of 2014 that feasibility reports are, to the extent practicable, to be completed in three years and have a maximum Federal cost of \$3 million.
3. I hereby approve the requested to increase the total study time from 36 months to 86 months. The Feasibility Cost Share Agreement was signed on 5 September 2018 and the study will be completed by 5 November 2025. In order to ensure seamless funding for this study, I also approve the requested \$5 million in Federal funding that increases the total Federal funding from \$3 million to \$8 million. The additional funds required will have to compete for funding in future budgets and/or work plans.
4. I request your diligent attention on actively managing the study cost and schedule. If there are any questions, please contact Mr. Mark Kramer, Project Planning and Review at (202) 761-0038.

JAIME A. PINKHAM
Acting Assistant Secretary of the Army
(Civil Works)

CF:
DCG-CEO, USACE
DCW, USACE
CECW-SWD

Exhibit 2: Breakdown of Port of San Francisco Spending on the USACE Flood Study

Table 2: Work-In-Kind Contribution by Project Management Plan Section as of April 2021

Project Management Plan Section		Deliverable	Work in Kind	Subtotal
9.2	Plan Formulation	Initial Array/Alternatives Meeting Milestone	\$7,733.35	\$36,112.50
		Focused Array	\$28,379.15	
9.3	Hydraulics/ Coastal Engineering	Wave Modeling/Wind Analysis	\$114,634.45	\$253,967.91
		Economic scope for PMP	\$6,767.35	
		G2CRM (USACE Flood Model) Training	\$11,851.86	
		Wind-Wave Final Technical Memo	\$32,366.05	
		Flood Risk Profiles	\$6,837.31	
		Agency Technical Review (ATR) deliverables	\$7,792.52	
		Coastal Storm Database, wind/wave	\$17,103.17	
		Respond to ATR comments and prepare ATR deliverables	\$11,227.20	
		Coastal Storm Database	\$45,388.00	
9.4	Economics	Asset Inventory/Depth Damage Functions	\$96,411.04	\$474,838.91
		G2CRM Training	\$4,276.38	
		Economic scope for Project Management Plan (PMP)	\$9,140.83	
		National Economic Development (NED) Inventory & Customized Assets	\$126,535.33	
		Additional NED Benefit White Paper	\$17,339.11	
		Regional Economic Development (RED)/Other Social Effects (OSE) Draft Technical Memo & Inventory	\$125,512.94	
		NED Support, RED/OSE Draft Analysis, respond to ATR comments, asset inventory, business interruption, residual risk analysis, revise Economic Appendix, annualization methodology, develop maritime economics, mobility scenario	\$59,440.15	
		NED Support, RED/OSE Draft Analysis, residual risk analysis, revise Economic Appendix, Placemat for VT	\$20,727.37	
		Economics Policy/ Tidal Flooding White Paper	\$15,455.76	
9.5	Environmental Planning	NEPA Planning/ Environmental scope for PMP	\$36,215.12	\$360,951.92
		NEPA Existing Conditions Sections (Historical Resources, Archaeology, Air Quality, Noise, Aesthetics, Environmental Justice, Recreation, Transportation, Utilities and Public Service, Water Quality, Utilities, Land Use, Hazardous Materials)	\$263,186.63	
		Early NEPA Scoping, Public	\$2,688.00	
		Early NEPA Scoping, Resource Agency Working Group	\$5,268.48	
		NEPA Existing Conditions Sections (Utilities & Public Service, Water Quality, Land Use, Hazardous Materials)	\$53,593.69	
9.6	Stakeholder and Public Engagement	Islais/Bayview Meeting #3	\$18,795.29	\$39,727.10
		Mission Bay Meeting #2	\$16,169.31	
		Early NEPA Scoping	\$4,762.50	
9.7	Cultural Resources	Meeting with State Historic Preservation Office on 12/7/20. Presentation materials and preparation	\$3,136.00	\$3,136.00
9.8	Geo Sciences	Seismic Cost and Benefits Implementation Guidance White Paper	\$681.74	\$681.74

Table 2: Work-In-Kind Contribution by Project Management Plan Section as of April 2021

Project Management Plan Section		Deliverable	Work in Kind	Subtotal
9.9	Geospacial Information System (GIS)	Seawall GIS data	\$3,149.40	\$3,149.40
9.10	Civil Design	Conceptual Measures/AMM	\$70,147.22	\$374,428.21
		Measure Fact Sheets & Working draft for Measures Unit Costs	\$261,708.01	
		Input for Measures Unit Cost	\$14,855.95	
		Shoreline Elevation Tool	\$27,717.03	
9.11	Urban Design	Urban Design/ Formulation approach scope for PMP	\$46,358.38	\$46,358.38
9.12	Cost Engineering	Focused Array Measure Costs	\$131,877.50	\$131,877.50
			Work in Kind Total	\$1,725,229.57
Cash Contribution #1				\$500,000.00
Cash Contribution #2				\$200,000.00
Cash Contribution #3				\$290,000.00
Total NFS Contribution as of April 2021				\$2,715,229.57

**PORT COMMISSION
CITY AND COUNTY OF SAN FRANCISCO**

RESOLUTION NO. 21-53

- WHEREAS, The San Francisco Seawall was constructed more than a century ago and serves as the foundation for more than three miles of San Francisco waterfront, supporting historic piers, wharves, and buildings including the Ferry Building, and underpinning the Embarcadero Promenade which welcomes millions of people each year, serves as a critical emergency response and recovery area, and supports BART, Muni and ferry transportation and utility networks; and
- WHEREAS, The Port's Southern Waterfront includes Pier 48 and 50, areas surrounding Mission Creek, streets and parks in Mission Bay, the Union Iron Works Historic District at Pier 70, the Port's active maritime industrial piers, including Pier 80 and Piers 92-96, and land adjacent to Islais Creek, including 1399 Marin Street; and
- WHEREAS, Flood risk maps published by the Port, the City and the Federal Emergency Management Agency all indicate current and future flood risk along significant portions of Port property associated with King Tides, 100-Year and 500-Year Floods, and sea level rise; and
- WHEREAS, On June 7, 2018, the United States Army Corps of Engineers (USACE) awarded the City and County of San Francisco a "new start" study appropriation to commence a General Investigation (GI) feasibility study to examine the Federal interest of possible improvements to reduce flood risk along the San Francisco waterfront (the San Francisco Flood Resiliency Study, or Flood Study), as elaborated in the staff memorandum accompanying Resolution 18-46 passed by the Port Commission on August 14, 2018; and
- WHEREAS, Pursuant to Resolution 18-46, the Port Commission authorized the Executive Director to enter into a Feasibility Cost Sharing Agreement with USACE for the Flood Study at a total cost of \$3 million over three years, under which the Port as Non-Federal sponsor committed to match federal funding for the Flood Study in equal proportion, resulting in a \$1.5 million Federal funding commitment and a \$1.5 million Non-Federal sponsor (Port) commitment; and
- WHEREAS, On May 26, 2020, pursuant to Resolution 20-24, the Port Commission authorized the Executive Director to enter into, and the parties entered into, a first amendment to the Fiscal Cost Sharing Agreement with USACE (as amended by such first amendment, the "Original FCSA"), which increased the Flood Study funding from \$3 million to \$6 million and increased the Port's match to \$3 million in cash or in-kind contributions, as described in the staff report accompanying such resolution; and

- WHEREAS, In July 2020, USACE Headquarters informed the Port that USACE had reassigned the Study from the San Francisco District Office to the Southwestern Division (SWD) of USACE; and
- WHEREAS, The Original FCSA authorized by the Port Commission under Resolution 18-46 and amended under Resolution 20-24 expired as of September 9, 2021; and
- WHEREAS, The SWD has worked closely with Port staff to develop a new recommendation for a \$16 million Study to be completed within 7 years and 2 months, with a Chief of Engineers Report to Congress by November 2025 and submitted a new recommendation for a waiver to USACE Headquarters and the Assistant Secretary of the Army; and
- WHEREAS, The revised Study cost, which requires a total Port expenditure of \$8 million, no longer triggers a requirement that the Board of Supervisors approve the amended FCSA;
- WHEREAS, On September 7, 2021, USACE Headquarters approved a recommendation for submittal of a waiver to the Assistant Secretary of the Army-Civil Works requesting an increase to the Study budget of an additional \$10 million (50% federally funded) and an increase to the schedule of an additional 50 months, for a total Study cost of \$16 million and a 7-year, 2-month (86 months) schedule with a focus on a multi-hazard, multi-agency approach to resiliency on the San Francisco waterfront; and
- WHEREAS, On November 18, 2021, Assistant Secretary of the Army-Civil Works (ASA-CW) approved the Rule Exemption to increase the Study cost by \$10 million to a total Study cost of \$16 million and increase the Study duration by 50 months for a total Study duration of 86 months; and
- WHEREAS, USACE and the Port need to further amend the Original FCSA to continue the Study with the increased budget and time period; and
- WHEREAS, The Port has funds allocated in its Seawall Resiliency Project, 12672 - Seawall & Marginal Wharf Repair to provide the required cost matching contribution, where the Port will determine the mix of cash and credit for in-kind services required of the Port under the FCSA; and
- WHEREAS, On October 12, 2021 by Resolution 21-43, the Port Commission authorized the Port Director to enter into a new FCSA with SWD to continue the Study, but Port staff subsequently learned that 1) instead of entering into a new agreement, USACE prefers to amend the Original FCSA, and 2) Board of Supervisors approval is not required for the agreement as Port's financial commitment is capped at \$8 million and the term of the revised agreement will be less than 10 years; and

WHEREAS, Due to the complexity of the Flood Study and the transfer to USACE SWD the Flood Study warrants a further amendment to the Original FCSA, that (1) increases the budget by an additional \$10 million (for a total Flood Study budget of \$16 million), (2) increases the schedule by an additional 4 years 2 months (50 months) from the execution of the proposed amendment (for a total Flood Study duration of 7 years, 2 months), and (3) gives the Port the option to provide its cost match contribution earlier than federal appropriations to the Flood Study, which may be a useful option to advance the Flood Study in the event that Federal funding is not available in a given budget year, as further described in the staff report accompanying this resolution; now be it

RESOLVED, That the Port Commission hereby repeals Resolution 21-43; and be it further

RESOLVED, That the Port Commission hereby authorizes the Executive Director to enter a second amendment to the Original FCSA (together with the Original FCSA, the "FCSA") that (1) allows the Port to elect to provide its cost match contribution earlier than federal appropriations to the Flood Study, (2) increases the Flood Study budget by an additional \$10 million, increasing the Port's 50% total local match to \$8 million (\$3 million under the first amendment and \$5 million under the proposed second amendment) in Port funds or in-kind contributions to the Flood Study, and (3) allows for an additional 4 years 2 months (86 months) to complete the Study, as described in the staff report accompanying this resolution, which second amendment will be in such form as approved by the City Attorney; and be it further

RESOLVED, Future advance cash funding to USACE under the accelerated funding clause of the FCSA will be funded through appropriations previously approved by the Port Commission and the Board of Supervisors; and be it further

RESOLVED, That the Port Commission hereby authorizes the Executive Director to execute any documents required for the implementation of a second amendment as described in this resolution and accompanying staff memorandum, including any letters of intent, amendments, augmentations or extensions thereof necessary to implement the transaction contemplated by the FCSA and this resolution which, when taken as a whole, the Executive Director determines in consultation with the City Attorney, are in the best interests of the Port, and do not materially decrease the benefits or materially increase the obligations or liabilities of the Port, and are necessary or advisable to complete the transaction that the FCSA and this resolution contemplates.

I hereby certify that the foregoing resolution was adopted by the Port Commission at its meeting of December 14, 2021.

Secretary