

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**PORT ORDINANCE NO. 4669**

**ORDINANCE ADOPTING THE PROCEDURES FOR CONTRACTS  
WITH FORMER BOARD MEMBERS AS CHAPTER 2.04 OF THE  
PORT OF OAKLAND ADMINISTRATIVE CODE (POAC) BY  
AMENDING AND RESTATING PORT ORDINANCE NO. 3667.**

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**WHEREAS**, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the Agenda Report for Agenda Item 2.3, dated October 13, 2022, ("Agenda Report") and related agenda materials, has received the expert testimony of Port of Oakland ("Port") staff, and has provided opportunities for and taken public comment; and

**WHEREAS**, Section 706 of the City of Oakland ("City") Charter gives to the Board the complete and exclusive power and duty for and on behalf of the City to exercise various powers and duties relating to the Port's jurisdiction, including, but not limited to, the power and duty to "adopt and enforce such ordinances, orders, regulations and practices as are necessary for the proper administration and discharge of its duties and powers, or for the management and government of the port, and its facilities" (City Charter, Sec. 706(27)); and

**WHEREAS**, in acting upon this matter, the Board has exercised its independent judgment based on substantial evidence in the record and adopts and relies upon the facts, data, analysis, and findings set forth in the Agenda Report and in related agenda materials and in testimony received; now, therefore

**BE IT ORDAINED** by the Board of Port Commissioners of the City of Oakland as follows:

**Section 1.** The proposed action is not subject to the California Environmental Quality Act ("CEQA") under the general rule exclusion under Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that the proposed action will not have a significant effect on the environment and therefore is not a "project" under CEQA.

**Section 2.** The Board hereby:

A. Adopts the Conditions and Procedures for Contracts with and Employment of Former Members of the Board ("Procedures for Contracts with Former Board Members") as Chapter 2.04 of the Port of Oakland Administrative Code ("POAC") by amending and restating Port Ordinance No. 3667, as set forth in the attachment to this Ordinance.

B. Authorizes the Executive Director or his designee to take all actions necessary to implement this adoption into the POAC, provided that such actions do not materially differ from the terms and conditions set forth herein and in the Agenda Report, subject to approval as to legality by the Port Attorney.

**Section 3.** This Ordinance is not evidence of and does not create or constitute (a) a contract, or the grant of any right, entitlement or property interest, or (b) any obligation or liability on the part of the Board or any officer or employee of the Port. Unless and until a separate written agreement is duly executed on behalf of the Board as authorized by this Ordinance, 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.

**Section 4.** This Ordinance shall take effect on the date of its final adoption; provided, however, that if a petition protesting the adoption of this Ordinance is timely and duly submitted to the elections official of the City of Oakland in the manner required under California Elections Code § 9237, the effective date of this Ordinance shall be suspended, and all actions authorized by this Ordinance shall be null and void.

The Board of Port Commissioners, Oakland, California, October 13, 2022. Passed to print for one day by the following vote: Ayes: Commissioners Butner, Cluver, Colbruno, Lee, Martinez, Story, and President Leslie - 7.

Daria Edgerly

Secretary of the Board

Adopted at a Regular Meeting held October 27, 2022  
by the following vote:

Ayes: Commissioners Butner, Colbruno, Lee, Martinez, Story, and  
President Leslie - 6

Noes: 0

Excused: Commissioner Cluver - 1

  
\_\_\_\_\_  
President.  
Attest: \_\_\_\_\_  
Secretary.

Approved as to form and legality:

  
\_\_\_\_\_  
Port Attorney

## **Chapter 2.04      Procedures for Contracts with Former Board Members**

### **Section 2.04.010      Ineligibility of Former Commissioners**

Former Commissioners shall be ineligible for employment by or contracts with the Port for a period of one (1) year after the Commissioner's term has ended or the Commissioner has otherwise left office.

### **Section 2.04.020      Contracts with Specified Entities Prohibited**

For a period of one (1) year after a Commissioner leaves office, contracts with any entity in which such former Commissioner has an equity interest are prohibited, unless the Commissioner's interest would qualify as a "remote interest" under California Government Code § 1091, as such section may be amended from time to time, or would be deemed not an interest under California Government Code § 1091.5, as such section may be amended from time to time, as applied were the former Commissioner still be serving on the Board.

### **Section 2.04.030      Contracts with Former Commissioners**

Contracts with former Commissioners are prohibited without time limitations after leaving office if the contractual relationship relates to matters such Commissioner may have considered or advised upon before departure from the Board.

### **Section 2.04.040      Violations of this Chapter**

Any contract entered into in violation of this Chapter is null and void; and any compensation or consideration paid by the Port must be returned to the Port with interest at the legal rate.

### **Section 2.04.050      Prohibition on Influencing Matters**

No former Commissioner, for a period of one (1) year after leaving office, shall for compensation act as agent, representative, or otherwise as advocate on behalf of any other Person by making any written or oral communication to Port staff, the Board, or Commissioners or appearance before the Board or any of its committees for the purpose of influencing decisions on contracts or other matters pending before the Board or any of its committees.