



**COMMISSION
AGENDA MEMORANDUM**

Item No. 8d

ACTION ITEM

Date of Meeting April 13, 2021

DATE: March 18, 2021

TO: Steve Metruck Executive Director

FROM: Pete Ramels, General Counsel
Loren Armstrong, Sr. Port Counsel
Janice Zahn, Asst. Engineering Director, Construction

SUBJECT: Baggage Optimization Phase 1 Water Damage Settlement Agreement

Amount Payable to the Port: \$1,600,000

ACTION REQUESTED

Request Commission authorization for the Executive Director to execute a settlement agreement to resolve claims and potential claims arising out of two TSA-owned Explosive Detection System Machines (the “EDS Machines”) that were damaged and required replacement during the Baggage Optimization Phase 1 project (“BOP1”).

SUMMARY

The Port asserted pre-litigation claims against PCL, the general contractor on the BOP1 project, and Red Hawk Fire Protection LLC (“Red Hawk”), one of PCL’s subcontractors. PCL and Red Hawk asserted that they were not contractually responsible for the replacement cost of the two water-damaged EDS Machines.

The parties (and their respective insurers) first mediated on November 4, 2020, and then continued to negotiate with the mediator’s assistance until early March 2021 when the parties successfully resolved the dispute subject to authorization by the Port Commission. The proposed settlement involves an aggregate payment to the Port of \$1,600,000. The settlement agreement does not constitute an admission of liability or wrongdoing on the part of any party; rather, the settlement is recommended to avoid the time, expense, disruption, and uncertainty of litigating claims.

This matter was discussed in executive session.

There are no attachments to this memo.