

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

PORT ORDINANCE NO. 4348

ORDINANCE APPROVING LICENSE AND CONCESSION AGREEMENT WITH CHANTAL WILSON, DBA "FRENCH ARTIST CLUB, INC.", FOR PROPERTY LOCATED AT 8407 EDGEWATER DRIVE, SUITE C, OAKLAND, CALIFORNIA.

WHEREAS, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the Agenda Report for Agenda Item 2.2, dated September 10, 2015 (the "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; now, therefore

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

Section 1. 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.

Section 2. The Board hereby approves the terms and conditions set forth in the Agenda Report for the License and Concession Agreement with **CHANTAL WILSON, DBA "FRENCH ARTIST CLUB, INC."**, to rent the premises located at 8407 Edgewater Drive, Suite C, Oakland for 5 years (subject to the Port's early termination right) for a monthly rent of \$708.40 for the first 12 months, with 3% annual increases thereafter.

Section 3. The Board hereby authorizes the Executive Director to execute the License and Concession Agreement with **CHANTAL WILSON, DBA "FRENCH ARTIST CLUB, INC."**, subject to approval as to form and legality by the Port Attorney.

Section 4. The Board hereby finds and determines that entering into the Property Rental Agreement is not subject to CEQA under CEQA Guidelines Section 15301 (Existing Facilities), which exempts the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment or topographical features, involving negligible

or no expansion of use beyond that existing at the time of the lead agency's determination.

Section 5. This ordinance 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. Unless and until a separate written contract 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 other contracting party, there shall be no valid or effective contract.

Section 6. This ordinance shall be effective immediately upon adoption by the Board.

The Board of Port Commissioners, Oakland, California, September 10, 2015. Passed to print for one day by the following vote: Ayes: Commissioners Colbruno, Head, Parker, Story, Yee and President Hamlin - 6. Excused: Commissioner Butner - 1. Noes: 0.

John T. Betterton
Secretary of the Board

Adopted at a regular meeting held September 24, 2015
by the following vote:

Ayes: Commissioners Butner, Colbruno, Head, Parker, Story, Yee and
President Hamlin - 7
Noes: 0

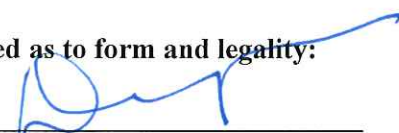


President.

Attest: 

Secretary.

Approved as to form and legality:



Port Attorney

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

PORT ORDINANCE NO. 4349

ORDINANCE AUTHORIZING THE EXECUTIVE DIRECTOR TO AMEND SPACE ASSIGNMENT AGREEMENTS AT THE FORMER OAKLAND ARMY BASE WITH (i) BRIDGEPORT TRANSPORTATION, (ii) IMPACT TRANSPORTATION, (iii) MDI FOREST PRODUCTS, (iv) PACIFIC COAST CONTAINER, (v) PORT TRANSFER INC., AND (vi) UNITED INTERMODAL SERVICE.

WHEREAS, the Port of Oakland ("Port") has entered into separate Space Assignments with each of the entities listed in the caption to this Ordinance for various portions of the Port's portion of the former Oakland Army Base ("OAB") on an interim basis until future development plans for those portions of the OAB can be implemented; and

WHEREAS, Port staff propose to extend each of the named Space Assignments for two years with one right to extend the term for an additional year subject to mutual agreement of the subject Space Assignee and the Port, in the Port's sole discretion; and

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report for Item 6.4, dated September 10, 2015 (the "Agenda Report") and related materials, has received the expert testimony of Port of Oakland ("Port") staff, and has provided opportunities for and taken public comment; now, therefore,

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

Section 1. 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.

Section 2. The Board hereby finds and determines as follows:

A. The proposal to authorize the Executive Director to modify and extend Space Assignments with certain tenants at the OAB through 2017 or 2018 was reviewed in accordance with the requirements

of the California Environmental Quality Act ("CEQA") and the Port CEQA Guidelines; and

B. In July 2002, the City Council of the City of Oakland ("City"), as the lead agency under CEQA, certified an Environmental Impact Report ("EIR") for reuse of the OAB. On September 17, 2002, the Board, acting on behalf of the Port as a responsible agency under CEQA, adopted findings and a mitigation program in reliance on the City's EIR (Resolution No. 02317). In June 2012, the Board considered the 2012 OAB Project Initial Study/Addendum and adopted mitigation measures applicable to the Port from the City's OAB Standard Conditions of Approval/Mitigation Monitoring and Reporting Program ("SCA/MMRP") with Resolution No. 12-76. The OAB EIR described projects to be developed by the Port on its portion of the former OAB, including interim leasing of property for ancillary maritime support as described in the Agenda Report. Therefore, no further or additional environmental review or documentation is necessary in order for the Board to take the actions recommended in the Agenda Report.

C. Tenant operations and construction of the proposed improvements are required to comply with applicable mitigation measures and standard conditions of approval in the adopted SCA/MMRP, which is available on line at:

<http://www2.oaklandnet.com/Government/o/PBN/OurOrganization/PlanningZoning/s/ApplicationandZoningInformation/OAK042281>

D. All projects on the Economic Development Conveyance property at the former OAB must be completed in compliance with the September 27, 2002 Remedial Action Plan ("RAP") and the Risk Management Plan ("RMP", which is Appendix E to the RAP) prepared for the State of California Department of Toxic Substances Control and the Oakland Base Reuse Authority, which is available on line at:

http://www.envirostor.dtsc.ca.gov/public/final_documents2.asp?global_id=01970006&doc_id=5003117

Section 3. The Board approves the terms and conditions of and authorizes the Executive Director or his designee to amend the Space Assignment agreements with the tenants named in the caption to this Ordinance to extend the terms of such Space Assignments, subject to the following terms and conditions:

A. The term of such extensions shall expire on or before December 31, 2017, subject to one right to negotiate an extension for one additional year upon mutual agreement between the subject Space Assignee and the Port, in the Port's sole discretion; and

B. The rent shall be at the current Space Assignment rates set forth in Port Tariff 2-A, as the same may be amended from time-to-time. Accordingly, the rates for warehouse space from the

effective dates of each amendment shall be \$0.36/sq. ft., and the rates for yard space from the effective dates of each amendment shall be \$0.182/sq. ft. If such rates are subsequently amended by the Board, the amended rates will apply from the effective date of the amendment; and

C. Those tenants with Space Assignments for warehouse space will be given the right to perform certain minor repairs to their Space Assigned premises on condition that each such Space Assignee (i) first prepare and submit to the Port's Chief Wharfinger a detailed written description of the proposed repairs to the premises together with such Space Assignee's estimate of the cost of such work and any other information that the Chief Wharfinger may request, (ii) the Port will reimburse the Space Assignee for the cost of such repair work via rent credits against such Space Assignee's monthly rent, (iii) the total amount of the Port's obligation to reimburse any Space Assignee shall not exceed \$35,000 per warehouse building bay as set forth in the Agenda Report, which cap shall not exceed the amount of rent the Port would receive from such Space Assignee over the life of the extended term, and (iv) the Port's Director of Maritime approves such proposed repair work in writing and specifying the maximum amount of rent credits that the Port will grant for such repairs and such other conditions that the Port may require.

Section 4. The Board hereby authorizes the Executive Director or his designee to approve and execute any documents that may be required to carry out the extension of the subject Space Assignments as described in the Agenda Report, in consultation with and subject to the Port Attorney's approval as to form and legality, and subject to the condition that the approvals set forth in this Ordinance be valid for no longer than 30 days, and that if the subject documents are not fully executed by that date such approval shall be null and void unless further extended at the sole and absolute discretion of the Executive Director or his designee.

Section 5. This Ordinance 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. Unless and until separate written agreements are duly executed on behalf of the Board as authorized by this Ordinance, are signed and approved as to form and legality by the Port Attorney, and are delivered to each of the other contracting parties, there shall be no valid or effective agreements.


Section 6. This Ordinance shall take effect immediately after its final adoption.

The Board of Port Commissioners, Oakland, California, September 10, 2015. Passed to print for one day by the following vote: Ayes: Commissioners Colbruno, Head, Parker, Story, Yee and President Hamlin - 6. Excused: Commissioner Butner - 1. Noes: 0.


John T. Betterton
Secretary of the Board

Adopted at a regular meeting held September 24, 2015
by the following vote:

Ayes: Commissioners Butner, Colbruno, Head, Parker, Story, Yee and
President Hamlin - 7
Noes: 0

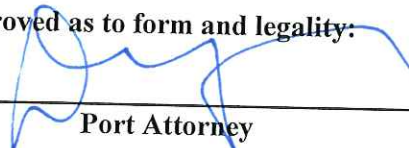


President.

Attest: 

Secretary.

Approved as to form and legality:



Port Attorney