

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**PORT ORDINANCE NO. 4723**

**ORDINANCE APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A THIRD AMENDMENT TO THE LICENSE AND CONCESSION AGREEMENT WITH BANK OF AMERICA, NATIONAL ASSOCIATION, LOCATED AT 101 WASHINGTON STREET, OAKLAND TO ALLOW FOR VARIOUS LIGHTING UPGRADES, AND FINDING THAT THE PROPOSED ACTION IS EXEMPT UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

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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 2.1, dated November 9, 2023, and related agenda materials ("Agenda Report"), 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 make provisions for the needs of commerce, shipping, and navigation of the Port and to promote the development, construction, and operation of all waterfront properties, including piers, wharves, sea walls, docks, and other improvements; and

**WHEREAS**, the proposed action will provide service for members of the public who use the waterfront, and is consistent with the Port's duty to use and manage Port property in trust for the people of the State of California (the "Tidelands Trust"), and the private use of Port property pursuant to the requested approval will not interfere with the Tidelands Trust; 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 testimony received; now, therefore

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

**Section 1.** The Board hereby finds and determines that the proposed action is categorically exempt from the California Environmental Quality Act ("CEQA") under Section 15301 of the CEQA Guidelines because the proposed action consists of activities that involve negligible or no expansion of an existing use.

**Section 2.** The Board hereby approves and authorizes the Executive Director or his designee to:

A. Execute the proposed Third Amendment to the License and Concession Agreement ("Agreement") with **Bank of America, National Association**, for the premises located at 101 Washington Street, Oakland, to allow for various lighting upgrades, as further described in the Agenda Report, subject to approval as to form and legality by the Port Attorney. Furthermore, if the proposed Agreement is not fully executed within thirty (30) days after the effective date of the Board's approval, the approval shall be null and void unless extended at the sole and absolute discretion of the Executive Director or his designee.

B. Make any additions, modifications, or corrections as necessary to implement the Agreement, provided that any such addition, modification, or correction does not materially differ from the terms and conditions set forth herein and in the Agenda Report, subject to approval as to form and 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, November 9, 2023. Passed to print for one day by the following vote: Ayes: Commissioners Cluver, Colbruno, Dominguez Walton, Lee, Martinez, Myres, and President Leslie - 7. Noes: 0.

Daria Edgerly,  
Secretary of the Board

Adopted at a Regular Meeting held November 30, 2023  
by the following vote:

Ayes: Commissioners Cluver, Colbruno, Dominguez Walton, Martinez, Myres, and President Leslie - 6  
Excused: First Vice-President Lee - 1  
Noes: 0

  
\_\_\_\_\_  
President.

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

Approved as to form and legality:

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

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**PORT ORDINANCE NO. 4724**

ORDINANCE APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A SECOND AMENDMENT TO THE TEMPORARY RENTAL AGREEMENT WITH PACIFIC GAS & ELECTRIC COMPANY TO EXTEND THE TERM THROUGH DECEMBER 31, 2024, AND INCREASE THE INITIAL MONTHLY RENTAL RATE TO \$7,872.76, FOR A CONSTRUCTION STAGING AREA ON THE PREMISES LOCATED AT LIVINGSTON STREET AND EMBARCADERO ROAD, OAKLAND.

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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 2.2, dated November 9, 2023, and related agenda materials ("Agenda Report"), 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 make provisions for the needs of commerce, shipping, and navigation of the Port and to promote the development, construction, and operation of all waterfront properties, including piers, wharves, sea walls, docks, and other improvements; and

**WHEREAS**, the proposed action will provide service for members of the public who use the waterfront, and is consistent with the Port's duty to use and manage Port property in trust for the people of the State of California (the "Tidelands Trust"), and the private use of Port property pursuant to the requested approval will not interfere with the Tidelands Trust; 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 testimony received; now, therefore

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

**Section 1.** The Board hereby finds and determines that the proposed action is not subject to the California Environmental Quality Act ("CEQA") because the proposed action does not involve an activity that may cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment as further defined in Section 21065 of the Public Resources Code.

**Section 2.** The Board hereby approves and authorizes the Executive Director or his designee to:

A. Execute the proposed Second Amendment to the Temporary Rental Agreement ("Agreement") with **Pacific Gas & Electric Company** for the premises located at Livingston Street and Embarcadero Road, Oakland, to extend the term through December 31, 2024, and increase the initial Monthly Rental Rate to \$7,872.76, as further described in the Agenda Report, subject to approval as to form and legality by the Port Attorney. Furthermore, if the proposed Agreement is not fully executed within thirty (30) days after the effective date of the Board's approval, the approval shall be null and void unless extended at the sole and absolute discretion of the Executive Director or his designee.

B. Make any additions, modifications, or corrections as necessary to implement the Agreement, provided that any such addition, modification, or correction does not materially differ from the terms and conditions set forth herein and in the Agenda Report, subject to approval as to form and 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, November 9, 2023. Passed to print for one day by the following vote: Ayes: Commissioners Cluver, Colbruno, Dominguez Walton, Lee, Martinez, Myres, and President Leslie - 7. Noes: 0.

Daria Edgerly,

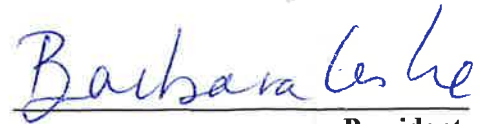
Secretary of the Board

Adopted at a Regular Meeting held November 30, 2023  
by the following vote:


Ayes: Commissioners Cluver, Colbruno, Dominguez Walton, Martinez, Myres, and President Leslie - 6

Excused: First Vice-President Lee - 1

Noes: 0

  
\_\_\_\_\_  
President.

Attest:

  
\_\_\_\_\_  
Secretary.

Approved as to form and legality:

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

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**PORT ORDINANCE NO. 4725**

**ORDINANCE AMENDING APPENDIX C-1 OF THE PORT OF  
OAKLAND ADMINISTRATIVE CODE (POAC) TO ADJUST THE  
NORTH FIELD GENERAL AVIATION T-HANGAR, RAMP SPACE,  
AND TIEDOWN RATES.**

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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 6.2, dated November 9, 2023, and related agenda materials ("Agenda Report"), 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 testimony received; now, therefore

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

**Section 1.** The Board hereby finds and determines that the proposed action is not subject to the California Environmental Quality Act ("CEQA") because the proposed action does not involve an activity that may cause either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment as further defined in Section 21065 of the Public Resources Code.

**Section 2.** The Board hereby:

A. Amends Appendix C-1 of the Port of Oakland Administrative Code ("POAC") to adjust the North field General Aviation T-hangar, ramp space, and tiedown rates, as set forth in the attachment to this Ordinance and as further described in the Agenda Report.

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 form and 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, November 9, 2023. Passed to print for one day by the following vote: Ayes: Commissioners Cluver, Colbruno, Dominguez Walton, Lee, Martinez, Myres, and President Leslie - 7. Noes: 0.

Daria Edgerly,

Secretary of the Board

Adopted at a Regular Meeting held November 30, 2023  
by the following vote:

Ayes: Commissioners Cluver, Colbruno, Dominguez Walton, Martinez, Myres, and President Leslie - 6

Excused: First Vice-President Lee - 1

Noes: 0



President.

Attest:



Secretary.

Approved as to form and legality:



Port Attorney



**POAC Appendix C-1, Section B.3**

The following provisions shall be effective December 1, 2023:

<b>Hangar Area (Port-owned Hangars)</b>	<b>Monthly Rates</b>
Port-A-Port (760 square feet)	\$365.00
Port-A-Port (1,000 square feet)	\$441.00
T-Hangar (840 square feet)	\$373.00
T-Hangar (960 square feet)	\$426.00
T-Hangar (1,110 square feet)	\$495.00
T-Hangar (1,152 square feet)	\$513.00
T-Hangar (1,596 square feet)	\$707.00

<b>Hangar Area Between Hangar 6 &amp; 7, and South of Building L-606 (Port-owned Hangars)</b>	<b>Monthly Rates</b>
T-Hangar (1,060 square feet)	\$574.00
T-Hangar (1,340 square feet)	\$723.00

<b>Hangar Area (Privately owned Port-a-Port)</b>	<b>Monthly Rates</b>
Ramp Space (780 square feet)	\$196.00
Ramp Space (1,060 square feet)	\$267.00
Ramp Space (1,340 square feet)	\$339.00
Ramp Space (2,050 square feet)	\$513.00

On July 1, 2024, and July 1, 2025 (each the “Fee Adjustment Date”), the Executive Director shall adjust each fee in the tables in this Section B.3 by 100 percent of the then Consumer Price Index for All Urban Consumers (CPI-U, All Items, San Francisco-Oakland-Hayward, CA (formerly San Francisco-Oakland-San Jose)) increase for the one-year period before the last CPI reported prior to that Fee Adjustment Date. If said Index is changed so that the base year differs from the base year used in the last index published, the former Index shall be converted to the new Index in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. Each such increase shall be reflected in appropriate revisions to the tables in this Section B.3.

**POAC Appendix C-1, Section B.2.a**

The following provisions shall be effective December 1, 2023:

<b>Tiedowns</b>	<b>Monthly Rate</b>
40 feet or less	\$95.00
50 feet or less	\$115.00

On July 1, 2024, and July 1, 2025 (each the "Fee Adjustment Date"), the Executive Director shall adjust each fee in the above table by 100 percent of the then Consumer Price Index for All Urban Consumers (CPI-U, All Items, San Francisco-Oakland-Hayward, CA (formerly San Francisco-Oakland-San Jose)) increase for the one-year period before the last CPI reported prior to that Fee Adjustment Date. If said Index is changed so that the base year differs from the base year used in the last index published, the former Index shall be converted to the new Index in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. Each such increase shall be reflected in appropriate revisions to the above table.

**POAC Appendix C-1, Section B.2.a**

The following provisions shall be effective December 1, 2023:

Tiedowns	Monthly Rate	First 8 Hours or Fraction Thereof	Each Additional 8 Hours or Fraction Thereof	Maximum Daily Rate
40 feet or less	See Table in <b><u>POAC Appendix C-1, Section B.2.a</u></b> Above	\$ 7.00	\$ 4.00	\$ 15.00
50 feet or less	See Table in <b><u>POAC Appendix C-1, Section B.2.a</u></b> Above	\$ 9.00	\$ 5.00	\$ 19.00
75 feet or less	\$ 201.00	\$ 15.00	\$ 6.00	\$ 27.00
100 feet or less	\$ 226.00	\$ 22.00	\$ 7.00	\$ 36.00
125 feet or less	\$ 351.00	\$ 36.00	\$ 15.00	\$ 66.00
150 feet or less	\$ 512.00	\$ 50.00	\$ 22.00	\$ 94.00
175 feet or less	\$ 678.00	\$ 64.00	\$ 35.00	\$ 134.00
200 feet or less	\$ 837.00	\$ 79.00	\$ 41.00	\$ 161.00
Over 200 Feet	\$1,012.00	\$ 95.00	\$ 48.00	\$ 191.00
Blimp, 40 Feet or less	\$1,560.00	\$104.00	\$ 50.00	\$ 204.00
Taxi-in/Taxi-out	\$ 136.00	\$ 9.00	\$ 5.00	\$ 19.00

Beginning on July 1, 2026, and every five (5) years thereafter (“Fee Adjustment Date”), the Executive Director shall adjust each fee in the above table by 100 percent of the then Consumer Price Index for All Urban Consumers (CPI-U, All Items, San Francisco-Oakland-Hayward, CA (formerly San Francisco-Oakland-San Jose)) increase for the five-year period before the last CPI reported prior to that Fee Adjustment Date. If said Index is changed so that the base year differs from the base year used in the last index published, the former Index shall be converted to the new Index in accordance with the conversion factor published by the United States Department of Labor, Bureau of Labor Statistics. Each such increase shall be reflected in appropriate revisions to the above table.

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**PORT ORDINANCE NO. 4726**

**ORDINANCE APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A FIRST AMENDMENT (FIRST SUPPLEMENTAL AGREEMENT) TO THE LEASE WITH PORT TRANSFER, INC. TO DEFER A SCHEDULED RENT INCREASE AND TO MODIFY TENANT OBLIGATIONS TO COMPLETE CERTAIN MAINTENANCE RESPONSIBILITIES RESULTING IN A TOTAL REVENUE LOSS OF APPROXIMATELY \$488,172 IN FISCAL YEAR (FY) 2024; A TOTAL EXPENSE SAVINGS OF UP TO \$464,000 IN FY 2024; AND FINDING THAT THE PROPOSED ACTION IS EXEMPT UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

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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 6.3, dated November 9, 2023, (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; 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 make provisions for the needs of commerce, shipping, and navigation of the Port and to promote the development, construction, and operation of all waterfront properties, including piers, wharves, sea walls, docks, and other improvements; and

**WHEREAS**, the proposed action will provide important services for customers of the Port, and is consistent with the Port's duty to use and manage Port property in trust for the people of the State of California (the "Tidelands Trust"), and the private use of Port property in the form of a lease will not interfere with the Tidelands Trust; and

**WHEREAS**, the Port has an existing lease ("Lease") dated January 1, 2023 with Port Transfer, Inc., a Nevada Corporation ("PTI") for PTI to use a certain portion of Port-owned property located on Port property formerly known as the Oakland Army Base ("OAB") property, consisting of approximately 6.08 acres of warehouse space and approximately 7.59 acres of yard space; and

**WHEREAS**, PTI provides transloading and warehousing services to the Port's Maritime operations, and requested a rent deferral (to be paid by December 31, 2027) due to its reported significant decline in business resulting from the drop in TEU volume; and

**WHEREAS**, Port staff reviewed PTI's business operations, financial performance and financial statement;

**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 proposed First Supplemental Agreement to amend to the Lease with PTI is exempt from the requirements of the California Environmental Quality Act ("CEQA") because the proposed action consists of leasing of existing structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use, as further defined in Section 15301 of the CEQA Guidelines.

B. Port staff have negotiated and recommend entering into the First Supplemental Agreement, which modifies the monthly rent by postponing the July 1, 2023 rent increase to January 1, 2024, with payment of that deferred rental amount to be paid by December 31, 2027, postponing PTI's deadline to perform certain maintenance, and providing that the Port may step in and perform fire sprinkler maintenance, at the Port's own option, with other terms and conditions of the Lease remaining unchanged.

**Section 3.** The Board hereby authorizes the Executive Director or his designee to execute the First Supplemental Agreement with PTI, as further described in the Agenda Report, subject to approval as to form and legality by the Port Attorney.

**Section 4.** 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 5.** 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, November 9, 2023. Passed to print for one day by the following vote: Ayes: Commissioners Cluver, Colbruno, Dominguez Walton, Lee, Martinez, Myres, and President Leslie - 7. Noes: 0.

Daria Edgerly,

Secretary of the Board

Adopted at a Regular Meeting held November 30, 2023  
by the following vote:

Ayes: Commissioners Cluver, Colbruno, Dominguez Walton, Martinez, Myres, and President Leslie – 6  
Excused: First Vice-President Lee – 1  
Noes: 0

  
\_\_\_\_\_  
President.

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

Approved as to form and legality:

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

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**PORT ORDINANCE NO. 4727**

**ORDINANCE APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE AMENDMENTS TO THE NON-EXCLUSIVE PREFERENTIAL ASSIGNMENT AGREEMENTS WITH SSA TERMINALS (OAKLAND), LLC FOR OAKLAND INTERNATIONAL CONTAINER TERMINAL (BERTHS 55-60) TO (A) EXTEND THE DEADLINE BY WHICH THEY MUST COMPLETE CERTAIN DEFERRED PAVEMENT MAINTENANCE; (B) CORRECT AN ERROR IN THE AGREEMENTS REGARDING THE PORT'S REIMBURSEMENT FOR CRANE REMOVAL WORK; AND FINDING THAT THE PROPOSED ACTION IS EXEMPT UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.**

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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 No. 6.4, dated November 9, 2023, and related agenda materials ("Agenda Report"), has received the expert testimony of Port of Oakland ("Port") staff, and has provided opportunities for and taken public comment; 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; and

**WHEREAS**, the Non-Exclusive Preferential Assignment Agreements with SSA Terminals (Oakland), LLC for Oakland International Container Terminal (Berths 55-60) were last amended as of October 1, 2021 ("Prior Amendments"); and

**WHEREAS**, those Prior Amendments required SSAT to perform certain pavement maintenance by June 30, 2025, work that was delayed due to congestion on the marine terminals from 2020-2022; and

**WHEREAS**, SSA requested, and staff does not object to a two-year extension of the time to perform the pavement maintenance; and

**WHEREAS**, in the course of discussing the proposed extension of the pavement maintenance work, Port staff identified an error regarding reimbursement as between the parties; and

**WHEREAS**, to effectuate the proposed extension and typographical errors all of the following agreements must be executed: (a) 11<sup>th</sup> Supplemental to the Lease for B55-56, (b) 7<sup>th</sup> Supplement to the Lease for

B57-59 (which, since 2018, also includes Berth 60), and (c) 1<sup>st</sup> Supplement to the Second Amended and Restated Agreement Regarding Combined Compensation at the OICT (ARCC);

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

**SECTION 1.** The Board hereby finds and determines the following:

A. This action was reviewed in accordance with the requirements of the California Environmental Quality Act ("CEQA"), and the CEQA Guidelines. This project is categorically exempt pursuant to Section 15301, Existing Facilities, which exempts from CEQA the leasing of existing facilities involving negligible or no expansion of existing or former use. No further review is required under CEQA.

B. The respective premises for the NEPAA is subject to the California tidelands trust doctrine as developed by common law, California legislative acts, and case law (collectively, the "Tidelands Trust") and are part of the "Port Area" as defined in Section 725 of the City Charter; and

C. Section 706 of the City Charter gives to the Board the complete and exclusive power and duty for and on behalf of the City to make provisions for the needs of commerce, shipping, and navigation of the Port and to promote the development, construction, and operation of all waterfront properties including piers, wharves, sea walls, docks, and other improvements; and

D. The proposed amendments are consistent with the Port's duty to use and manage Port property in accordance with the Tidelands Trust, and the private use of Port property pursuant to these amendments will not interfere with the Tidelands Trust.

**SECTION 2.** The Board hereby authorizes the Executive Director of the Port ("Executive Director") to:

A. Execute on behalf of the Board the proposed (a) 11<sup>th</sup> Supplemental to the Lease for B55-56, (b) 7<sup>th</sup> Supplement to the Lease for B57-59 (which, since 2018, also includes Berth 60), and (c) 1<sup>st</sup> Supplement to the Second Amended and Restated Agreement Regarding Combined Compensation at the OICT (ARCC) in accordance with the following terms and conditions, as further set forth in the Agenda Report:

1. SSA shall have until June 30, 2027 to perform pavement maintenance as set forth in the Lease for B55-56 and the Lease for B57-59.

2. Phases of completion in the ARCC shall be as set forth in the 1<sup>st</sup> Supplement to the Second Amended and Restated ARCC.



B. Make such additions, modifications, or corrections as necessary to implement the amendments or to correct errors, subject to the limitations set forth herein and provided that any such addition, modification, or correction does not materially differ from the terms and conditions set forth herein and in the Agenda Report and is approved as to form and 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 separate written agreements are 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 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, November 9, 2023. Passed to print for one day by the following vote: Ayes: Commissioners Cluver, Colbruno, Dominguez Walton, Lee, Martinez, Myres, and President Leslie - 7. Noes: 0.

Daria Edgerly,

Secretary of the Board

Adopted at a Regular Meeting held November 30, 2023  
by the following vote:

Ayes: Commissioners Cluver, Colbruno, Dominguez Walton, Martinez, Myres, and President Leslie - 6  
Excused: First Vice-President Lee - 1  
Noes: 0

  
\_\_\_\_\_  
President.

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

Approved as to form and legality:

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

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

**PORT ORDINANCE NO. 4728**

**ORDINANCE AMENDING PORT OF OAKLAND ORDINANCE NO.  
867 TO SET THE ANNUAL SALARY FOR THE CHIEF REAL  
ESTATE OFFICER AT \$298,000 AND FOR THE DIRECTOR OF  
ENVIRONMENTAL PROGRAMS AND PLANNING AT \$263,616.**

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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 6.5, dated November 9, 2023, and related agenda materials ("Agenda Report"), 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.** The requested action is not subject to the California Environmental Quality Act ("CEQA") because, under section 15378(b)(5) of the CEQA Guidelines, it is an organizational or administrative activity of government that will not result in direct or indirect physical changes in the environment and is therefore not a "project" under CEQA.

**Section 2.** 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 3.** Section 8.19 of Port Ordinance No. 867 is hereby amended to add the following language for the Chief Real Estate Officer classification:

**Salary**

\$298,000.00

**Section 4.** Section 1.2999 of Port Ordinance No. 867 is hereby amended to add the following language for the Director of Environmental Programs and Planning classification:

<u>Senior Management (Unit H)</u>	<u>Recommended Annual Salary</u>
Director of Environmental Programs and Planning	\$263,616.00



**Section 5.** 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, November 9, 2023. Passed to print for one day by the following vote: Ayes: Commissioners Cluver, Colbruno, Dominguez Walton, Lee, Martinez, Myres, and President Leslie - 7. Noes: 0.

Daria Edgerly,  
Secretary of the Board

Adopted at a Regular Meeting held November 30, 2023  
by the following vote:

Ayes: Commissioners Cluver, Colbruno, Dominguez Walton, Martinez, Myres, and President Leslie - 6  
Excused: First Vice-President Lee - 1  
Noes: 0

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

Approved as to form and legality:

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