

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

PORT ORDINANCE NO. 4471

ORDINANCE APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE WITH GSC LOGISTICS, INC. A SECOND AMENDMENT TO LEASE FOR 7,777 SQUARE FEET OF PREMISES LOCATED AT 530 WATER STREET, 5TH FLOOR, OAKLAND, (INCLUDING A LICENSE FOR 5 SQUARE FEET OF ROOFTOP SPACE) AND A NEW LICENSE AND CONCESSION AGREEMENT FOR 1,918 SQUARE FEET OF PREMISES LOCATED AT 516 WATER STREET, OAKLAND, BOTH FOR A TERM OF APPROXIMATELY FIVE (5) YEARS AND A COMBINED MONTHLY RENT OF \$32,090.00.

WHEREAS, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the Agenda Report for Agenda Item 6.8, dated April 12, 2018 (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 Charter of the City of Oakland ("City") 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 agreements will not interfere with the Tidelands Trust; 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. GSC Logistics, Inc. ("GSC Logistics") is currently the lessee under a Lease for 7,777 square feet of office space at 530 Water Street, 5th Floor, Oakland; and

B. GSC Logistics is currently a licensee under an Antenna Site License Agreement for approximately five square feet of rooftop space at 530 Water Street, Oakland; and

C. GSC Logistics is currently a Permittee under a Temporary Rental Agreement for 1,918 square feet of ground floor space located at 516 Water Street, Oakland; and

D. Port staff have negotiated and recommend entering into the following agreements with GSC Logistics under the terms described in the Agenda Report, including (without limitation) the following:

1. Agreement: Lease Amendment No. 2

- i. Premises: 530 Water Street, Oakland, 5th Floor (consisting of 7,777 square feet of office space) and 5 square feet of rooftop space.
- ii. Term: June 1, 2018, through June 30, 2023.
- iii. Minimum Monthly Rent: \$27,997.00, increased annually by 3%.
- iv. Common Area Maintenance and Operating Cost Reimbursement: \$445.00 monthly, increased annually by 5%.
- v. Rooftop Antenna License: \$190.00 per month.

2. Agreement: License and Concession Agreement

- i. Premises: 516 Water Street, Oakland (consisting of 1,918 square feet of office space).
- ii. Term: April 15, 2018, through June 30, 2023.
- iii. Minimum Monthly Rent: \$3,903.00, increased annually by 3%.
- iv. Common Area Maintenance and Operating Cost Reimbursement: \$1,586.00 monthly, increased annually by 5%.

E. The Board further finds and determines that the proposed approval is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15301, 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 3. The Board hereby authorizes the Executive Director or his designee to execute the proposed agreements with **GSC Logistics, Inc.**, 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 Board. 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.

The Board of Port Commissioners, Oakland, California, April 12, 2018. Passed to print for one day by the following vote: Ayes: Commissioners Colbruno, Cluver, Hamlin, Martinez, Yee and President Story - 6. Excused: Commissioner Butner - 1. Noes: 0.


Daria Edgerly
Secretary of the Board


Adopted at a Regular Meeting held April 26, 2018
by the following vote:

Ayes: Commissioners Colbruno, Cluver, Hamlin, Martinez, Yee and President Story - 6

Noes: 0

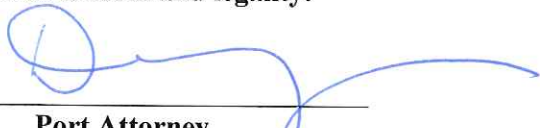
Excused: Commissioner Butner - 1



President.
Attest: 

Secretary.

Approved as to form and legality:



Port Attorney

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

PORT ORDINANCE NO. 4472

ORDINANCE APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO ENTER INTO A THIRTY-THREE YEAR TERM (WITH TWO OPTIONS TO EXTEND) GROUND LEASE WITH THE EAST BAY REGIONAL PARK DISTRICT FOR AN INITIAL MONTHLY RENT OF \$2,300 FOR APPROXIMATELY 1.44 ACRES OF UNIMPROVED LANDS AT 1441-1551 EMBARCADERO ROAD, OAKLAND, CALIFORNIA.

WHEREAS, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the Agenda Report for Agenda Item 6.9, dated April 12, 2018 (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 finds and determines as follows:

A. The Port of Oakland (the "Port") entered into that certain Exclusive Negotiating Agreement ("ENA") dated for reference purposes only as of July 1, 2017 with the East Bay Regional Park District, a California special district (the "District");

B. The ENA set forth the key business terms of a potential lease for the development of a passive recreational park;

C. Port staff and District staff have reached agreement on the final form of a long-term ground lease on terms and conditions consistent with the key business terms attached to the ENA; and

follows: D. The key terms and conditions of the lease are as

- i. Premises: Approximately 1.44 acres located at 1441-1551 Embarcadero Road (the former Crowley Yard I site);
- ii. Term: 33 years, with two (2) options to extend for sixteen (16) years each, subject to certain notice requirements and mutual agreement among both parties to extend;
- iii. Monthly Rent: \$2,300 per month, subject to annual CPI increases with a maximum increase of 4% and a minimum increase of 2%; the first three months of rent to be deducted from the ENA deposit of \$13,800 previously deposited with the Port;
- iv. Security Deposit: \$9,200 (equivalent to four times the monthly rental amount);
- v. Use of Premises: Development, operation, maintenance and repair of a passive recreational space and trail staging site, together with all improvements related thereto;
- vi. Improvements: All improvements to the premises to be constructed by the District at District's sole cost and expense. The Port has no obligation to construct or otherwise provide any improvements;
- vii. Maintenance: All maintenance of the premises to be performed by the District at the sole cost and expense of the District. Any major maintenance and repair required to address the failure or potential failure of the seawall shall be at the District's sole discretion to address. If the premises suffer severe damage due to events of nature related to the seawall rendering the premises unusable for the District's purposes, the District may terminate the lease;
- viii. Utilities: Installation and maintenance of utilities, and the payment of utility service charges, to be performed and paid for by the District;
- ix. Condition of Premises/Environmental: The District has agreed to take the premises in its as-is, where-is, with all faults condition, without any

representations or warranties from the Port, subject to the following: Environmental remediation or testing required for the District's development or use of the site is at the District's sole cost and expense. The District will not be liable for damages to third parties or properties caused by pre-existing site conditions prior to the effective date of the lease (June 1, 2018) unless the damages are caused by the District's failure to comply with provisions of the lease; and

- x. Assignment: No assignment of the lease will be permitted without the prior written consent of the Port.

E. The Board further finds and determines based upon all the information received by the Port to date that the proposed lease (i) reflects a fair market rental value for the site given the small size, unimproved condition, narrow shape, and location of the property adjacent to the Oakland Estuary on two sides, (ii) will result in a long-term revenue stream for the Port from a property which has been vacant for several years, (iii) will eliminate future maintenance obligations for the Port, and (iv) will result in the development of a passive recreational public park with a trail staging area that connects with and complements the City of Oakland's plans to construct a waterfront trail segment on the site, all of which is consistent with the Port's duties under the tidelands trust.

F. The Board further finds and determines based upon all the information received by the Port to date that the proposed lease is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15061(b)(3), which states the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Approving the lease with the District will not adversely impact the environment. Therefore, this action is exempt from CEQA. On March 20, 2018, the District determined the project to be exempt from the requirements of CEQA pursuant to Section 15325(f) (Transfers of Ownership of Interest in Land to Preserve Existing Natural Conditions and Historical Resources) and Section 15061(b)(3). The District is responsible for complying with all federal, state, and local environmental regulations. As described above, any environmental remediation required for the District's development will be at the sole cost and responsibility of the District.

Section 3. The Board hereby authorizes the Executive Director or his designee to execute the proposed lease with the District and to

make minor amendments to the lease consistent with the intent of this ordinance and 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 Board. 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.

The Board of Port Commissioners, Oakland, California, April 12, 2018. Passed to print for one day by the following vote: Ayes: Commissioners Colbruno, Cluver, Hamlin, Martinez, Yee and President Story - 6. Excused: Commissioner Butner - 1. Noes: 0.


Daria Edgerly
Secretary of the Board

Adopted at a Regular Meeting held April 26, 2018
by the following vote:

Ayes: Commissioners Colbruno, Cluver, Hamlin, Martinez, Yee and
President Story - 6
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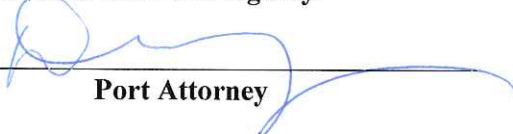


President.

Attest: 

Secretary.

Approved as to form and legality:



Port Attorney