

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

PORT ORDINANCE NO. 4486

ORDINANCE APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO ENTER INTO A LEASE AGREEMENT WITH SCHNITZER STEEL INC. FOR A 5-YEAR TERM FOR APPROXIMATELY 2 ACRES OF SUBMERGED LAND ADJACENT TO A PIER ON REAL PROPERTY COMMONLY REFERRED TO AS 1101 EMBARCADERO WEST, LOCATED ADJACENT TO THE SOUTHERLY SIDE OF EMBARCADERO WEST STREET AND THE WESTERLY BOUNDARY OF HOWARD TERMINAL FOR ANNUAL RENT RANGING FROM APPROXIMATELY \$143,000 TO APPROXIMATELY \$165,000.

WHEREAS, Schnitzer Steel Industries, Inc. ("SSII") currently leases approximately 1.8 acres of submerged land from the Port of Oakland ("Port") to berth vessels to an SSII-owned dock located on SSII-owned land pursuant to a 30-year lease that commenced in 1988 and will expire on July 26, 2018; and

WHEREAS, SSII has operated a metal recycling processing plant on real property along the Oakland Inner Harbor, owned by SSII, and commonly referred to as 1101 Embarcadero West in the City of Oakland since the early 1960s; and

WHEREAS, SSII processes and shreds scrap metal on its property and loads the shredded metals onto ocean-going bulk carrier vessels for international export, and SSII needs to be able to continue to use the Port's submerged lands so that the bulk carrier vessels can continue to dock and load the shredded metals for international export; and

WHEREAS, SSII and Port staff have negotiated an agreement to modify the leased premises, change the form of the agreement of the lease agreement, and address certain Port concerns regarding safety and possible future improvements to the navigational channel and the Inner Harbor Turning Basin; and

WHEREAS, the Board has reviewed and evaluated Agenda Report Item No. 6.1 (the "**Agenda Report**") to the Agenda of the July 12, 2018 regular meeting of the Board of Port Commissioners (the "**Board**") and related agenda materials, has received the expert testimony of 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.

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. All the lands subject to the proposed lease agreement ("Lease") are 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

B. 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 water front properties including piers, wharves, sea walls, docks, and other improvements; and

C. The proposed Lease will include the following major business points:

- The premises will be expanded from approximately 1.8 acres to approximately 2.0 acres of the Port's submerged lands; and

- The term of the agreement will be 5 years beginning on July 27, 2018; and

- Rent will be approximately \$11,900 per month, which equals the acreage of the submerged premises times the Port's Tariff rate for Submerged Lands; and

- SSII will be required to provide the Port with a security deposit equal to three times the monthly rent.

D. None of the Port's submerged lands comprising the premises are currently needed for Port operations, and the vessels calling at SSII's terminal do not currently interfere with maritime operations at the Port's marine terminals; and

E. SSII has agreed that the Port's submerged lands are subject to the federal navigational servitude and therefore will not have exclusive use of the proposed premises; and

F. The proposed terms and conditions of the Lease 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 further finds and determines that the proposed Lease was reviewed in accordance with the requirements of the California Environmental Quality Act ("**CEQA**") and the Port CEQA Guidelines. The Board hereby determines that the proposed Lease is categorically exempt from CEQA pursuant to Section 15301(p) of the Port's CEQA Guidelines, which exempts renewals, extensions or amendments to leases or license and concession agreements where the premises or licensed activity was previously leased or licensed to the same or another person, and involving negligible or no expansion of use beyond that previously existing. The proposed Lease to allow SSII to continue its current operations and activities at each the

slightly expanded premises meets the criteria for this exemption. Therefore, this action is not subject to CEQA, and no environmental review is required.

SECTION 3. The Board hereby authorizes the Executive Director to:

A. Execute on behalf of the Board the proposed Lease in accordance with the intent and purpose of this Ordinance.

B. Make such additions, modifications, or corrections as necessary to implement the amendments or to correct errors to the proposed Lease, 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.

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 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.


The Board of Port Commissioners, Oakland, California, July 12, 2018. Passed to print for one day by the following vote: Ayes: Commissioners Butner, Cluver, Colbruno, Hamlin, Martinez, Yee and President Story - 7. Noes: 0.

Daria Edgerly
Secretary of the Board


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

Ayes: Commissioners Colbruno, Cluver, Hamlin, Martinez, Story, Yee and
President Butner - 7

Noes: 0

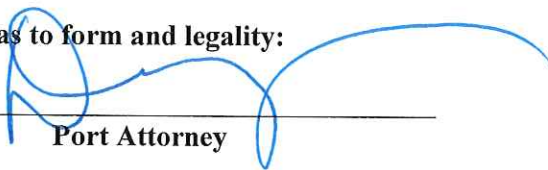


President.

Attest: 

Secretary.

Approved as to form and legality:



Port Attorney

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

PORT ORDINANCE NO. 4487

ORDINANCE AMENDING SECTION 2.06 OF PORT ORDINANCE NO. 867 RATIFYING AND SETTING THE COMPENSATION OF EMPLOYEES OF THE PORT DEPARTMENT REPRESENTED BY THE INTERNATIONAL BROTHERHOOD OF ELECTRICAL WORKERS, LOCAL 1245, AMENDING SECTION 1.191 PROVIDING PROFESSIONAL DEVELOPMENT BENEFITS FOR CERTAIN EMPLOYEES, AND ADDING SECTION 1.292 PROVIDING CERTAIN EMPLOYEES WITH A ONE TIME ONLY, NON BASE BUILDING PAYMENT OF \$1500.

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report for Item 6.5 dated July 12, 2018 ("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. The salary schedules set forth in Section 2.06 of Port Ordinance No. 867 for employees of the Port Department belonging to the International Brotherhood of Electrical Workers, Local 1245, ("IBEW") (Employee Representation Unit F) shall be and the same are hereby amended by increasing the rates of compensation (base wages) set forth on said salary schedules by an additional four percent (4%) on, and retroactive to, the first day of the pay period containing January 1, 2018.

Section 2. The salary schedules set forth in Section 2.06 of Port Ordinance No. 867 for employees of the Port Department belonging to IBEW (Employee Representation Unit F) shall be and the same are hereby amended by increasing the rates of compensation (base wages) set forth on said salary schedules by an additional four percent (4%) effective the first day of the pay period containing January 1, 2019.

Section 3. The salary schedules set forth in Section 2.06 of Port Ordinance No. 867 for employees of the Port Department belonging to IBEW (Employee Representation Unit F) shall be and the same are hereby amended by increasing the rates of compensation (base wages) set forth on said salary schedules by an additional three percent (3%) effective the first day of the pay period containing January 1, 2020.

Section 4. The salary schedules set forth in Section 2.06 of Port Ordinance No. 867 for employees of the Port Department belonging

to IBEW (Employee Representation Unit F) shall be and the same are hereby amended by increasing the rates of compensation (base wages) set forth on said salary schedules by an additional three percent (3%) effective the first day of the pay period containing January 1, 2021.

Section 5. Subsection 2.2 of Section 1.191 of Port Ordinance No. 867 shall be amended to delete the existing Subsection 2.2 and to replace it with the following:

"Section 1.191. Professional Development.

2.2. With respect to permanent employees in Port Employee Representation Unit F, an employee shall be eligible for reimbursement for expenses incurred for professional development, subject to budget approval of same by the Board, not to exceed \$1100 for the fiscal years 2018-2019, 2019-2020, 2020-2021, and 2021-2022, subject to the exceptions and provisions set forth in Section 3 below."

Section 6. Section 1.292 shall be added to Section 1.29 of Port Ordinance No. 867:

"Sec. 1.292. January 1, 2018 - June 30, 2022 Port of Oakland/International Brotherhood of Electrical Workers, Local 1245 Memorandum of Understanding ("MOU"): One-Time Only, Non base Building Payment in Exchange for Deletion of MOU Section 12.F.1 (Port Performance Premium).

The parties agree to delete the current section 12.F.1 Port Performance Premium as well as any and all references to payment of the Port Performance Premium from the Memorandum of Understanding. In exchange, the Port will make a onetime only, non base building payment of \$1500 to each bargaining unit member who is employed by the Port during the pay period that includes the date of ratification of the successor Agreement. This payment shall be made within sixty days of ratification of this Agreement."

Section 7. Upon its enactment by the Board, this Ordinance shall be effective immediately and retroactive to January 1, 2018, in accordance with the provisions of the Memorandum of Understanding between the Port and IBEW effective January 1, 2018.

Section 8. In acting upon the matters contained herein, the Board has exercised its independent judgment based on substantial evidence in the record and adopts and relies upon the facts, data, analysis, findings and conditions set forth in the Agenda Report and in related materials and in testimony received.

The Board of Port Commissioners, Oakland, California, July 12, 2018. Passed to print for one day by the following vote: Ayes: Commissioners Butner, Cluver, Colbruno, Hamlin, Martinez, Yee and President Story - 7. Noes: 0.

Daria Edgerly
Secretary of the Board

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

Ayes: Commissioners Colbruno, Cluver, Hamlin, Martinez, Story, Yee and President Butner - 7
Noes: 0



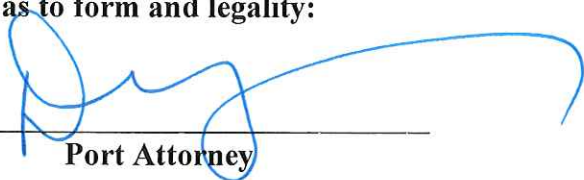
President.

Attest:



Secretary.

Approved as to form and legality:


Port Attorney