

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

PORT ORDINANCE NO. 4513

**ORDINANCE APPROVING AND AUTHORIZING THE
EXECUTIVE DIRECTOR TO EXECUTE A SECOND
AMENDMENT TO A LICENSE & CONCESSION AGREEMENT
WITH TRANSFER CASE EXPRESS, INC. FOR PREMISES
LOCATED AT 1285 EMBARCADERO ROAD, OAKLAND.**

WHEREAS, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the Agenda Report for Agenda Item 2.4, dated March 28, 2019 (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 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 State of California (the "Tidelands Trust"), and the private use of Port property pursuant to the License & Concession Agreement 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. Transfer Case Express, Inc. ("Licensee") is currently the Licensee to a License & Concession Agreement, with an effective date of March 1, 2014, as amended by a First Amendment dated May 1, 2016 ("Agreement") for operation of a transfer case business on Port owned property located at 1285 Embarcadero Road, Oakland ("Premises"); and
- B. Licensee and the Port desire to amend the Agreement to approve a sub-license to Afterguard Sailing Academy (who will utilize the Premises for maritime education for sailboat operation and safety, and related ancillary administrative purposes), amend the permitted uses to allow for such sub-license, and eliminate an option to extend the Agreement such that the Agreement expire on April 30, 2021, as further described in the Agenda Report; and
- C. 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 previously existing.

Section 3. The Board hereby authorizes the Executive Director or his designee to execute the proposed Second Amendment and such additional documents necessary to consummate the contemplated transaction with **Transfer Case Express, Inc.** for the Premises to approve the sub-license to Afterguard Sailing Academy, amend the permitted uses to allow for such sub-license, and eliminate the option to extend the Agreement so that the Agreement will expire on April 30, 2021, as further described in the Agenda Report, subject to approval as to form and legality by the Port Attorney. Furthermore, if the proposed Second Amendment or such additional documents necessary to consummate the contemplated transaction are not fully executed within sixty (60) days after Board approval, the approval shall be null and void unless extended at the sole and absolute discretion of the Executive Director of his designee.

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, March 28, 2019. Passed to print for one day by the following vote: Ayes: Commissioners Colbruno, Lee, Leslie, Martinez, Story and President Butner - 6. Excused: Commissioner Cluver - 1. Noes: 0.

Daria Edgerly

Secretary of the Board

Adopted at a Regular Meeting held April 25, 2019
by the following vote:

Ayes: Commissioners Cluver, Colbruno, Leslie and
President Butner - 4

Excused: Commissioners Lee, Martinez and Story
Noes: 0



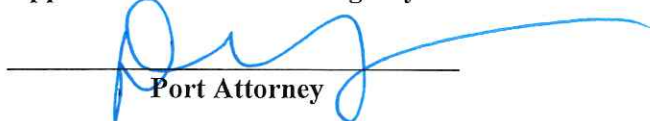
President.

Attest:



Secretary.

Approved as to form and legality:


Port Attorney

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

PORT ORDINANCE NO. 4514

ORDINANCE APPROVING (I) FOURTH SUPPLEMENT AND AMENDMENT TO LEASE AND OPTION TO LEASE TO A LEASE DATED SEPTEMBER 1, 2011, ORIGINALLY BETWEEN THE PORT OF OAKLAND AND BUSINESS JET CENTER-OAKLAND, L.P., NOW WITH PIEDMONT HAWTHORNE AVIATION, LLC, DOING BUSINESS AS SIGNATURE FLIGHT SUPPORT, TO AMEND THE PREMISES, ADJUST FACILITIES RENT AND CHANGE THE RENT ADJUSTMENT DATES, AND (II) A THIRD AMENDMENT TO LEASE TO A LEASE DATED NOVEMBER 1, 2011 WITH PIEDMONT HAWTHORNE AVIATION, LLC, DOING BUSINESS AS SIGNATURE FLIGHT SUPPORT TO ADJUST THE FACILITIES RENT AND RENT ADJUSTMENT DATES, FOR PREMISES LOCATED AT THE NORTH FIELD OF OAKLAND INTERNATIONAL AIRPORT.

WHEREAS, Piedmont Hawthorne Aviation, LLC, doing business as Signature Flight Support ("Signature"), through its predecessor Business Jet Center-Oakland, L.P. entered into a Lease and Option to Lease dated September 1, 2011 (as amended, "BJCO Lease") with the City of Oakland, acting by and through its Board of Port Commissioners ("Port"); and

WHEREAS, Signature entered into a Lease dated November 1, 2011 (as amended, "Landmark Lease") with the Port; and

WHEREAS, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the Agenda Report for Agenda Item 6.1, dated March 28, 2019 (the "Agenda Report") and related agenda materials, has received the expert testimony of Port staff, and has provided opportunities for and taken public comment; now, therefore

BE IT ORDAINED by the Board 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 (i) Fourth Supplement and Amendment to Lease and Option to the Lease to the BJCO Lease to expand the Hangar 8B Premises to include Residual Apron space, increase the Facilities Rent by \$3,548.50 per month for the Residual Apron space, acknowledge the demolition of Building No. L158 and reduction of rent from \$0.398 per square foot per month to \$0.080 per square foot per month, waive the requirement for the Rent Adjustment Upon Assignment for the Port's previous consent to assignment, suspend the contractually-required adjustment dates of Facilities Rent until July 1, 2021 and establish the Facilities Rent for September 1, 2015 through February 28, 2019 at \$170,463.53 per month, and March 1, 2019 through June 30, 2021 at \$170,699.70 per month, and revise the Rent Adjustment Date from September 1st to July 1st, as described in the Agenda Report, and (ii) Third Amendment to Lease to the Landmark Lease to waive the requirement for the Rent Adjustment Upon Assignment for the Port's previous consent to assignment, revise the Rent Adjustment Date from November 1st to July 1st, and suspend the contractually-required adjustment dates of Facilities Rent until July 1, 2021 and establish the Facilities Rent at \$213,815.70 per month for the period March 1, 2019 through June 30, 2021, as described in the Agenda Report.

Section 3. The Board hereby authorizes the Executive Director to execute the Fourth Supplement and Amendment to Lease and Option to the Lease, the Third Amendment to Lease and any other documents to effect the proposed transactions as described in the Agenda Report, subject to approval as to form and legality by the Port Attorney.

Section 4. The Board hereby finds and determines that the lease amendments with Signature are categorically exempt from the California Environmental Quality Act ("CEQA") Guidelines pursuant to 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.

The Board of Port Commissioners, Oakland, California, March 28, 2019. Passed to print for one day by the following vote: Ayes: Commissioners Colbruno, Lee, Leslie, Martinez, Story and President Butner - 6. Excused: Commissioner Cluver - 1. Noes: 0.

Daria Edgerly

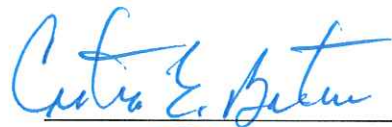
Secretary of the Board

Adopted at a Regular Meeting held April 25, 2019
by the following vote:

Ayes: Commissioners Cluver, Colbruno, Leslie and
President Butner - 4

Excused: Commissioners Lee, Martinez and Story

Noes: 0



President.

Attest:



Secretary.

Approved as to form and legality:


Port Attorney

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

PORT ORDINANCE NO. 4515

ORDINANCE AUTHORIZING AND APPROVING THE
EXECUTION OF A LICENSE AND CONCESSION
AGREEMENT WITH CONGLOBAL INDUSTRIES, LLC, FOR
A TERM EXTENDING THROUGH JUNE 30, 2023,
RESULTING IN ANNUAL RENT RANGING FROM
APPROXIMATELY \$1.7 MILLION TO \$2.1 MILLION;
AND AUTHORIZING \$76,331 FOR A ONE-TIME RENT
CREDIT AND \$1.0 MILLION FOR CERTAIN PAVEMENT
IMPROVEMENTS.

WHEREAS the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the proposed extension of space assignment agreements in the Port of Oakland's ("Port") maritime area as set forth in the Agenda Report for Agenda Item 6.2, dated March 28, 2019 (the "Agenda Report") and related agenda materials, has received the expert testimony of 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. ConGlobal Industries, LLC ("ConGlobal") is an existing Port tenant who operates a chassis, container, and refrigerated unit support yard on 14.6 acres located at 555A Maritime Street in the Port's Maritime Area ("Seaport"). ConGlobal's operations are an important ancillary maritime service to the Port's maritime terminal operators and other businesses that rely upon the waterborne transportation of maritime containers at the Port.

B. ConGlobal currently rents the 14.6 acre premises from the Port pursuant to a Space Assignment, but Port staff have negotiated and recommend a longer-term License and Concession Agreement for business stability and which transfers certain responsibilities for pavement repairs and improvements to ConGlobal. Fixed monthly rent under the proposed License and Concession Agreement would be \$141,780/mo., which is slightly less than what ConGlobal currently pays under the Space Assignment. However, staff believe that the benefits to the Port from a longer-term License and Concession Agreement with fixed annual rent increases and the transfer of responsibility for pavement repairs and improvements would equal the value of the reduced rent. Upon execution of the License and Concession, ConGlobal will be granted a rent credit in the amount of \$76,331, and upon the Port's issuance of a written notice of acceptance for pavement repair work, the Port will reimburse ConGlobal for 50% of the repavement cost up an amount not to exceed \$1 million. Other key terms are summarized in Exhibit A, attached to this Ordinance. Upon approval and execution of the License and Concession Agreement, the existing Space Assignment would terminate.

C. The proposal to enter into a License and Concession Agreement with ConGlobal for the same facility at 555A Maritime Street that ConGlobal currently rents pursuant to a Space Assignment was reviewed in accordance with the requirements of the California Environmental Quality Act ("CEQA") and the Port CEQA Guidelines. The proposed License and Concession Agreement is categorically exempt from CEQA pursuant to Section 15301(p) of the Port 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. Furthermore, the proposed pavement repairs and improvements are categorically exempt from CEQA pursuant to Section 15301, which exempts maintenance and repairs involving no expansion of use. Entering into a License and Concession Agreement with existing tenants to continue their current business operations and make pavement repairs to their existing premises meets the criteria for these exemptions.

SECTION 3. The Board approves the License and Concession Agreement set forth in the Agenda Report and authorizes the Executive Director to execute a License and Concession Agreement containing terms and conditions as summarized in Exhibit A, attached to this ordinance.

SECTION 4. The Board further authorizes the Executive Director to make minor modifications and corrections to the proposed License and Concession Agreement which the Executive Director in consultation with the Port Attorney determines are consistent with the intent of this ordinance.

Exhibit A

Summary of Proposed Key Terms for ConGlobal Industries, LLC

Effective Date	<ul style="list-style-type: none"> • June 1, 2019
Rent	<ul style="list-style-type: none"> • Starting on June 1, 2019, the Fixed Monthly Rent is \$141,780. • ConGlobal to receive a one-time rent credit in the amount of \$76,331 by December 31, 2019.
Rate Escalations and Contract Year	<ul style="list-style-type: none"> • The Fixed Monthly Rent increases by 5% annually on July 1 of each Contract Year, starting July 1, 2019. • The Contract Year is defined as the 12-month period beginning on July 1 of a calendar year and ending on June 30 of the immediately succeeding calendar year.
Leasehold	<ul style="list-style-type: none"> • The Premises is 635,784 square feet (14.6 acres).
Lease Term and Conditional Negotiating Opportunity	<ul style="list-style-type: none"> • June 1, 2019 through June 30, 2023. • Conditional Negotiating Opportunity: Beginning on July 1, 2022, ConGlobal has rights to exclusively negotiate terms to extend lease should another Port tenant decline its exclusive negotiating right for the Premises.
Maintenance	<ul style="list-style-type: none"> • ConGlobal remains responsible to maintain existing facility and pavement within Premises. • ConGlobal must maintain pavement in accordance with the provided schedule. • By December 31, 2020, ConGlobal must make all necessary pavement repairs within Area A as identified in ConGlobal Pavement Condition Survey dated December 7, 2018. Total estimated repair cost is \$1,600,000. • Port to reimburse ConGlobal for 50% of the actual costs it incurs to repair pavement, up to a maximum of \$1,000,000, in two equal payments. • Port will make payment #1 to ConGlobal within 90 days of pavement repair completion. • Port will make payment #2 to ConGlobal within 365 days of pavement repair completion.
Security Deposit	<ul style="list-style-type: none"> • Three (3) months Fixed Monthly Rent. • Deposit shall be evidenced by cash, irrevocable letter of credit, or similar instrument acceptable by the Port.

Delinquency Charge	<ul style="list-style-type: none"> • If unpaid, Fixed Monthly Rent will become delinquent if the Port does not receive it on or before the tenth (10th) day of each month. • Delinquency charge of 0.06% per day.
Air Quality	<ul style="list-style-type: none"> • Port's standard "Environmental Responsibilities" Exhibit which includes updated Air Quality requirements. The new provisions require ConGlobal to comply with current and future Federal and State laws. ConGlobal shall also adhere to current and future Port requirements including the Maritime Air Quality Improvement Plan (MAQIP). Lastly, ConGlobal is committed to use best efforts to apply for grants to reduce emissions from its equipment, work with the Port to test new technologies to enhance efficiency and emission reduction, and continue to work closely with the Port to inventory emissions from existing equipment and develop strategies for low to zero emission implementation.

SECTION 5. 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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement is duly executed on behalf of the Board as authorized by this resolution, is signed and 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, March 28, 2019. Passed to print for one day by the following vote: Ayes: Commissioners Colbruno, Lee, Leslie, Martinez, Story and President Butner - 6. Excused: Commissioner Cluver - 1. Noes: 0.

Daria Edgerly

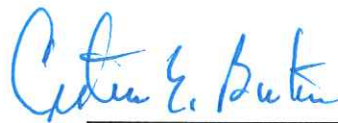
Secretary of the Board

Adopted at a Regular Meeting held April 25, 2019
by the following vote:

Ayes: Commissioners Cluver, Colbruno, Leslie and
President Butner - 4

Excused: Commissioners Lee, Martinez and Story

Noes: 0



President.

Attest:



Secretary.

Approved as to form and legality:


Port Attorney

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

PORT ORDINANCE NO. 4516

**ORDINANCE AMENDING SECTION 9.18 OF PORT OF
OAKLAND ORDINANCE NO. 867.**

WHEREAS, the Board of Port Commissioners has reviewed and evaluated the Agenda Report Item 6.4 dated March 28, 2019, ("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. Section 9.18 of Port Ordinance No.867 is hereby amended to amend the salary schedule assignment for the classification of Youth Aide, Class "C" to \$20.00 per hour.

Section 2. 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 in testimony received.

The Board of Port Commissioners, Oakland, California, March 28, 2019. Passed to print for one day by the following vote: Ayes: Commissioners Colbruno, Lee, Leslie, Martinez, Story and President Butner - 6. Excused: Commissioner Cluver - 1. Noes: 0.

Daria Edgerly

Secretary of the Board

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President Butner - 4

Excused: Commissioners Lee, Martinez and Story
Noes: 0



President.

Attest: _____

Secretary.

Approved as to form and legality:



Port Attorney