

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

PORT ORDINANCE NO. 4595

ORDINANCE APPROVING AND AUTHORIZING A GRANT
OF EASEMENT TO PACIFIC GAS AND ELECTRIC
COMPANY FOR ACCESS, REPAIR, AND MAINTENANCE
OF NATURAL GAS FACILITIES LOCATED IN THE
BERTH 24 THROUGH BERTH 26 BACKLANDS, TO
CONTINUE TO PROVIDE NATURAL GAS SERVICE TO
PORT OF OAKLAND TENANTS, FOR NO MONETARY
CONSIDERATION FOR SIXTY-SIX YEARS.

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report Item No. 6.2 dated April 8, 2021 ("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, that 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; 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 as follows:

A. This action was reviewed in accordance with the requirements of the California Environmental Quality Act ("CEQA"). The proposed action is consistent with the 2002 Oakland Army Base Area ("OAB") Redevelopment Plan Environmental Impact Report ("2002 OAB EIR"), which evaluated the potential impacts of redevelopment of the 1,800-acre redevelopment area, including the former OAB and the Maritime sub-district. The 2002 OAB EIR, as addended, includes necessary installation, repair, and improvement of infrastructure as part of the redevelopment program. This action does not trigger any of the conditions set forth in Section 15162 of the CEQA Guidelines, and no further CEQA review is thus required.

B. A natural gas line currently located in existing 7th Street right of way will be capped, eliminating an existing cathodic protection device (located within existing 7th Street) in preparation for construction of the 7th Street Grade Separation East project.

C. To ensure the safety of Pacific Gas & Electric's ("PG&E") natural gas lines in the immediate vicinity, as well as ensuring continued natural gas service to Port tenants, PG&E requested a direct easement from the Port for the installation of cathodic protection equipment on the backlands of Berth 24 adjacent to existing electrical substation equipment.

D. The proposed easement to PG&E is for the benefit of Port tenants for continued service, and the Port in facilitating the 7th Street Grade Separation East project and therefore will require no payment from PG&E.

SECTION 2. The Board hereby approves the terms and conditions of the Grant of Easement Agreement with PG&E, with the following major terms and conditions:

- A. **Premises:** The easement premises ("Premises") will be an area on the backlands of Berth 24 adjacent to existing electrical substation equipment, which is proximate to an existing natural gas line and allows an electrical connection to cathodic protection device (for operation), as well as access for inspection and maintenance. Attachment 1 to the Agenda Report provides a general depiction of the proposed location of the cathodic protection equipment referred to as the "Location Map" as further specified in Attachment 2 the "Easement Depiction" in the Agenda Report; and
- B. **Permitted Uses:** PG&E will be given a non-exclusive easement for the purpose of constructing, operating, inspecting, maintaining, repairing, removing and replacing, from time-to-time, the existing gas line and proposed cathodic protection equipment (collectively, "PG&E's Facilities") to continue to provide natural gas service to the immediate vicinity including Port tenants. PG&E will not be allowed to expand or enlarge PG&E's Facilities, add additional conduits, or install lateral connections on Port lands without first obtaining the Port's prior written permission, which the Port may grant, deny, or condition in its sole and absolute discretion; and
- C. **Term:** The term of the easement will be for sixty-six (66) years, with an option to extend for an addition sixty-six (66) years, and will terminate due to abandonment, non-use, or violation of the tidelands trust; and
- D. **Payment:** None. The proposed easement to PG&E is for the benefit of Port tenants and does not impair the utility of the Premises.

SECTION 3. The Board hereby authorizes the Executive Director of the Port ("Executive Director") to:

- A. Execute on behalf of the Board the Grant of Easement Agreement with PG&E, subject to the terms and conditions set forth herein and as further set forth in the Agenda Report.

B. Make such additions, modifications, or corrections as necessary to implement the Grant of Easement Agreement 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 are approved 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 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, April 8, 2021. Passed to print for one day by the following vote: Ayes: Commissioners Butner, Colbruno, Lee, Leslie, Martinez, Story and President Cluver - 7. Noes: 0.

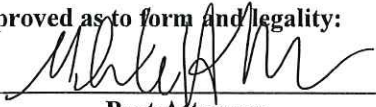
Daria Edgerly

Secretary of the Board



Adopted at a Regular Meeting held April 22, 2021
by the following vote:

Ayes: Commissioners Colbruno, Lee, Leslie, Martinez, Story and
President Cluver - 6
Excused: Commissioner Butner - 1
Noes: 0

Approved as to form and legality:


Port Attorney

Attest:


President.

Secretary.

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

PORT ORDINANCE NO. 4596

ORDINANCE APPROVING AND AUTHORIZING THE
EXECUTIVE DIRECTOR TO EXECUTE A LICENSE AND
CONCESSION AGREEMENT WITH MARY ANN SWIFT,
DBA AFTERGUARD SAILING ACADEMY, FOR AN
INITIAL ANNUAL RENT OF \$60,852 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 6.3, dated April 8, 2021, ("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 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 ("Tidelands Trust"), and the private use of Port property pursuant to the proposed agreement 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 related agenda materials 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 approval is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15301, which exempts the leasing or licensing of existing structures and involve negligible or no expansion of use beyond that previously existing.

Section 2. The Board further finds and determines that Port staff have negotiated and recommend entering into a License and Concession Agreement ("Agreement") under the following core terms:

- A. Licensee: Mary Ann Swift, dba Afterguard Sailing Academy.
- B. Premises: Approximately 900 square feet ("sq. ft.") of office space, 4,586 sq. ft. of warehouse space, and approximately 6,891 sq. ft. of paved and fenced land located at 1285 Embarcadero Road, Oakland.
- C. Term: Commencing on May 1, 2021, and terminating on April 30, 2024.
- D. Monthly Rent: \$5,071 with 3% annual increases.
- E. Security Deposit: Three (3) times' the Monthly Rent.
- F. Use: Maritime education for sailboat operation and safety, and related ancillary administrative purposes.

Section 3. The Board hereby approves and authorizes the Executive Director or his designee to:

A. Execute the Agreement with **Mary Ann Swift, dba Afterguard Sailing Academy**, as further described herein and 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 sixty (60) 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 such 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 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, April 8, 2021. Passed to print for one day by the following vote: Ayes: Commissioners Butner, Colbruno, Lee, Leslie, Martinez, Story and President Cluver - 7. Noes: 0.


Daria Edgerly

Secretary of the Board

Adopted at a Regular Meeting held April 22, 2021
by the following vote:

Ayes: Commissioners Colbruno, Lee, Leslie, Martinez, Story and
President Cluver - 6
Excused: Commissioner Butner - 1
Noes: 0



President.
Attest: 

Secretary.

Approved as to form and legality:



Port Attorney