

PORT ORDINANCE NO. 4423

ORDINANCE APPROVING AND AUTHORIZING THE EXECUTIVE  
DIRECTOR TO EXECUTE A LICENSE AND CONCESSION  
AGREEMENT WITH RAY HAYAME (DBA NISEI PLASTICS) FOR  
A ONE-YEAR TERM FOR PROPERTY LOCATED AT 7721 OAKPORT  
STREET, OAKLAND.

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 May 18, 2017 (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. Ray Hayame, dba Nisei Plastics ("Hayame") currently occupies approximately 3,750 square feet of building space located at 7721 Oakport Street, Oakland (the "Premises"); and

B. Hayame initially subleased the Premises from a prior Port tenant who master leased the Premises together with other Port lands (the "Previous Master Lease") from the Port; and

C. The Previous Master Lease terminated in 2016, and the Port granted Hayame a 12-month Temporary Rental Agreement that will expire on May 31, 2017; and

D. Port staff have negotiated and recommend a new one-year License and Concession Agreement with Hayame under the following terms, as described further in the Agenda Report:

- i. Premises: the Premises described above;
- ii. Term: One year, commencing June 1, 2017 and terminating on May 31, 2018;
- iii. Monthly Rent: \$1,504.46;
- iv. Performance Deposit: An amount equal to three times the currently effective Monthly Rent;

- v. Maintenance Obligations of Hayame: Hayame shall maintain the Premises, including all interior finishes, windows, doors, utilities, mechanical, electrical, and plumbing systems serving the Premises; and
- vi. Maintenance Obligations of the Port: Port shall maintain the roof, foundation, structural walls, pavement, and landscaping.

E. The Board further finds and determines that the proposed License and Concession Agreement 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. The proposed agreement with Mr. Hayame will not have a significant effect on the environment and therefore will not require further environmental review.

**Section 3.** The Board hereby authorizes the Executive Director or his designee to execute the proposed License and Concession Agreement with **Ray Hayame, dba Nisei Plastics**, as described in the Agenda Report, subject to approval as to form and legality by the Port Attorney. Furthermore, if the proposed License and Concession Agreement is not fully executed within thirty (30) days after Board approval, the approval shall be null and void unless extended at the sole and absolute discretion of the Executive Director or 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, May 18, 2017.  
Passed to print for one day by the following vote: Ayes: Commissioners Cluver, Hamlin, Martinez, Story, Yee and President Colbruno - 6.  
Excused: Commissioner Butner - 1. Noes: 0.

John T. Betterton  
Secretary of the Board