

PORT ORDINANCE NO. 4450

ORDINANCE APPROVING A 10% INCREASE TO TARGET RENTAL RATES FOR SHORT TERM RENTAL AGREEMENTS AND A 4% INCREASE TO HOLDOVER RENTAL RATES FOR CERTAIN EXISTING PROPERTY RENTAL AGREEMENTS WITHIN THE COMMERCIAL REAL ESTATE DIVISION PORTFOLIO.

WHEREAS, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the Agenda Report for Agenda Item 6.2, dated November 9, 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 the following:

A. Increasing the Target Rental Rates by 10% and the Holdover Rental Rate by 4% as proposed in the Agenda Report will make such rates more consistent with comparable rates and conditions in the surrounding area, be generally consistent with Maritime Tariff rates for comparable properties, and align with comparable market rental rates appropriate for the specific land use type and asset condition in the local area, while minimizing the potential impact to existing holdover tenants;

B. The proposal to increase Target Rental Rates as described in Exhibit C and approve an increase to Holdover Rental Rates for certain affected properties within the CRE Division was reviewed in accordance with the requirements of the California Environmental Quality Act ("CEQA"), and the Port CEQA Guidelines. CEQA only requires analysis of activities that are defined as a "project". The creation of government funding mechanisms or other government fiscal activities that do not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment is not a project pursuant to Section 15378(b)(4) of the CEQA Guidelines. Therefore, increasing Target Rents and Holdover Rental Rates within the CRE Division is a fiscal activity and is not a project under CEQA.

Section 3. The Board hereby approves the proposed increase in (i) Target Rental Rates by 10%, and (ii) Holdover Rental Rates by 4%, each as proposed in the Agenda Report.

Section 4. The Board hereby directs and authorizes the Executive Director or his designee to negotiate and execute Short-Term Rental Agreements under Article IX, Section 6 of the Board's By-Laws and Administrative Rules under the newly approved Target Rental Rates and authorizes the Executive Director or his designee to adjust existing agreements under the newly approved Holdover Rental Rates, subject to

approval by the Port Attorney as to form and legality.

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. 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, November 9, 2017. 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