

PORT ORDINANCE NO. 4463

ORDINANCE APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A FIFTH AMENDMENT TO THE LEASE WITH YOSHI'S JAPANESE RESTAURANT, INC. FOR PROPERTY LOCATED AT 510 EMBARCADERO WEST, OAKLAND, AND TO AMEND VARIOUS RENTAL COMPENSATION TERMS.

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 February 8, 2018 (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 that the proposed Lease Amendment is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines, Article 19, Section 15300.4, which exempts the execution of leases or 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. Approval of the proposed Lease Amendment with Yoshi's falls within this class of exemptions. No additional environmental review is required to take the action recommended in the Agenda Report.

Section 3. The Board hereby authorizes the Executive Director or his designee to execute with **Yoshi's Japanese Restaurant, Inc.** the proposed Fifth Amendment to Lease for property located at 510 Embarcadero West, Oakland to amend various rental compensation terms, subject to the terms and conditions described in the Agenda Report, and subject to approval as to form and legality by the Port Attorney. Furthermore, if this proposed Fifth Amendment 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 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, February 8, 2018. Passed to print for one day by the following vote: Ayes: Commissioners Butner, Cluver, Colbruno, Martinez, Yee and President Story - 6. Excused: Commissioner Hamlin - 1. Noes: 0.

Daria Edgerly
Secretary of the Board