

PORT ORDINANCE NO. 4470

ORDINANCE APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO: (1) AMEND THE LEASE WITH SSA TERMINALS (OAKLAND), LLC FOR AN APPROXIMATELY 14-ACRE PARCEL IN THE ROUNDHOUSE AREA TO EXTEND THE TERM THROUGH DECEMBER 31, 2018 AND TO INCREASE THE RENTAL RATE TO \$0.247 PER SQUARE FOOT PER MONTH ON JULY 1, 2018; AND (2) EXTEND THE TEMPORARY ASSIGNMENT BY SSA TERMINALS, LLC OF AN APPROXIMATELY 19-ACRE PARCEL FROM THE BERTHS 60-63 MARINE TERMINAL TO SSA TERMINALS (OAKLAND), LLC AT THE BERTHS 55-59 MARINE TERMINAL THROUGH DECEMBER 31, 2018.

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 22, 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; 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 extensions and increase in rent will provide for the development and operation of a more efficient and effective maritime container terminal and related property consistent with the Port's duty to manage and administer such lands in accordance with purposes of the 1911 Act and of Section 706 of the City Charter, 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 these proposed actions 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. SSA Terminals (Oakland), LLC currently occupies an approximately 14-acre parcel in the Roundhouse Area under a lease (the

"14-Acre Lease"), in the form of a Space Assignment, which expires on April 15, 2018; and

B. SSA Terminals (Oakland), LLC and Port staff wish to extend the term of the 14-Acre Lease to December 31, 2018 on condition that as of July 1, 2018, the monthly rental per square foot shall increase to \$0.247 per square foot per month; and

C. SSA Terminals (Oakland), LLC currently utilizes an approximately 19-acre parcel in the Matson Terminal (Berths 60-63) under a temporary assignment by SSA Terminals, LLC to SSA Terminals (Oakland), LLC at the Berths 55-59 marine terminal (the "19-Acre Temporary Assignment"), which expires on April 15, 2017; and

D. SSA Terminals, LLC and Port staff wish to extend 19-Acre Temporary Assignment to December 31, 2018 under the same terms and conditions of the existing 19-Acre Temporary Assignment; and

E. The Board further finds and determines that the proposed actions are categorically exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15301(p), which exempts renewals, extensions, or amendments to leases or execution of leases 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.

Section 3. The Board hereby authorizes the Executive Director or his designee to take the following actions, as further described in the Agenda Report and subject to approval as to form and legality by the Port Attorney:

A. Amend the 14-Acre Lease with SSA Terminals (Oakland), LLC to extend the term through December 31, 2018 and to increase the monthly rental rate to \$0.247 per square foot per month on July 1, 2018; and

B. Extend the 19-Acre Temporary Assignment by SSA Terminals, LLC to SSA Terminals (Oakland) through December 31, 2018 under the same terms and conditions of the existing 19-Acre Temporary Assignment.

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 22, 2018. Passed to print for one day by the following vote: Ayes:

Commissioners Butner, Cluver, Colbruno, Hamlin, Yee and President Story
- 6. Excused: Commissioner Martinez - 1. Noes: 0.

Daria Edgerly
Secretary of the Board