

PORT ORDINANCE NO. 4484

ORDINANCE (1) APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE WITH GSC LOGISTICS, INC. A FOURTH AMENDMENT TO LEASE FOR PREMISES LOCATED AT 555 MARITIME STREET, EXTENDING THE LEASE THROUGH JUNE 30, 2023 AND WITH AN ANNUAL RENT RANGE OF \$1.45 MILLION AND \$1.68 MILLION AND (2) AUTHORIZING \$85,000 IN OPERATING EXPENSES FOR DEFERRED MAINTENANCE ON THE LEASED PREMISES.

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 June 28, 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 Charter of the City of Oakland ("City") 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, and is consistent with the Port's duty to use and manage Port property in trust for the people of the State of California (the "Tidelands Trust"), and the private use of Port property pursuant to the agreements 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. GSC Logistics, Inc. ("GSC Logistics") is currently the lessee under a Lease for premises located at 555 Maritime Street ("Lease"); and

B. Port staff have negotiated and recommend entering into a fourth amendment to the Lease with GSC Logistics under the terms described in the Agenda Report, including (without limitation) the following:

1. Term: The term is September 1, 2018 through June 30, 2023.

2. Premises: The leased area is reduced by 11,500 square feet (0.2640 acres) for a revised leasehold area of 679,703 square feet (15.6038 acres).
3. Fixed Monthly Rent: Starting September 1, 2018, the Fixed Monthly Rent is \$124,451 escalating three percent (3%) annually.
4. Variable Rent: Variable rent provisions will be removed from the Lease.
5. Conditional Negotiating Opportunity: The proposed fourth amendment to the Lease contains a conditional negotiating opportunity commencing on January 1, 2023 should another Port tenant decline its exclusive negotiating right for the Premises.
6. Domestic Cargo: The five percent (5%) limit on Domestic Cargo passing into the premises will now be calculated by tonnage.
7. Maintenance: GSC Logistics remains responsible to maintain existing facility and pavement within the Lease premises. GSC Logistics must make all necessary pavement repairs as required. The Port will reimburse 30% of the costs for the pavement crack and slurry seal work, up to a maximum of \$35,000, on a one-time basis.
8. Security Deposit: GSC shall deposit with the Port and maintain during the entire Term a deposit in the sum of three (3) months Fixed Monthly Rent. The deposit shall be evidenced by cash, certificate of deposit, irrevocable letter of credit, or similar instrument acceptable by the Port.
9. Air Quality: GSC is required to undertake certain environmental initiatives to promote, in particular, but not limited to, improvements to air quality at its facility.

C. The Board further 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(p), which exempts renewals, extensions or amendments to leases where the premises was previously leased 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 execute the proposed fourth amendment to the Lease with **GSC Logistics**, as further described in the Agenda Report, subject to approval as to form and legality by the Port Attorney.

Section 4. The Board hereby authorizes expenditure of up to \$85,000 for deferred maintenance on the Lease premises.

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, June 28, 2018. Passed to print for one day by the following vote: Ayes: Commissioners Butner, Colbruno, Cluver, Martinez, Yee and President Story - 6. Excused: Commissioner Hamlin - 1. Noes: 0.

Daria Edgerly
Secretary of the Board