

PORT ORDINANCE NO. 4493

ORDINANCE APPROVING AND RATIFYING THE EXECUTIVE  
DIRECTOR'S EXECUTION OF A FIRST AMENDMENT TO THE  
TEMPORARY RENTAL AGREEMENT WITH THE CITY OF OAKLAND  
THROUGH JULY 31, 2019 AT BERTH 33 IN THE SEAPORT.

**WHEREAS**, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the Agenda Report for Agenda Item 2.1, dated September 27, 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 as follows:

A. The Port entered into a rent-free Temporary Rental Agreement with the City of Oakland ("City") on or about August 1, 2017, for as-needed access and use by the City's police department of approximately 11.5 acres of paved land at the Berth 33 Backlands in the Seaport ("TRA");

B. The City has requested a one-year extension to the TRA on the same terms as the initial agreement;

C. Port and City staff have reached agreement and executed a TRA extension, with the following key terms:

- i. Premises: Approximately 11.5 acres of paved land at Berth 33;
- ii. Term: August 1, 2018-July 31, 2019;
- iii. Monthly Rent: \$0;
- iv. Security Deposit: \$0; and
- v. Use of Premises: As-needed access and use for purposes of conducting skills classes and training for City police department officers.

D. The Board further finds and determines based upon all the information received by the Port to date that the TRA extension provides a direct benefit and can be accommodated without adverse impacts to the Port's maritime operations.

E. The Board further finds and determines based upon all the information received by the Port to date that the proposed lease

is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15301(p), which exempts the execution of leases or license agreement where the premises or licensed activity was previously leased or licensed to the same or another person involving negligible or no expansion of use beyond that previously existing.

**Section 3.** The Board hereby approves and ratifies the Executive Director's or his designee's execution of the TRA extension with the City and to make minor amendments to the TRA consistent with the intent of this ordinance and the Agenda Report, subject to approval as to form and legality by the Port Attorney.

**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, September 27, 2018. Passed to print for one day by the following vote: Ayes: Commissioners Colbruno, Cluver, Hamlin, Martinez, Story, Yee and President Butner - 7. Noes: 0.

Daria Edgerly

Secretary of the Board