

PORT ORDINANCE NO. 4503

ORDINANCE AUTHORIZING AND APPROVING EXTENSION OF TEMPORARY RENTAL AGREEMENT WITH THE JLS OAKLAND APARTMENTS, LLC FOR PREMISES LOCATED AT THE CORNER OF EMARCADERO WEST STREET AND WEBSTER STREET FOR A MONTHLY RENTAL AMOUNT OF \$1,530 AND EXTENDING THE TERM FROM JANUARY 1, 2019, UP TO DECEMBER 31, 2019, WITH THE OPTION TO TERMINATE AFTER FOUR MONTHS UPON THIRTY DAYS' NOTICE BY EITHER PARTY.

WHEREAS, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the proposed extension of a Temporary Rental Agreement ("TRA") as set forth in the Agenda Report for Agenda Item 2.3, dated November 29, 2018 (the "Agenda Report") and related agenda materials, has received the expert testimony of 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 has an existing TRA with JLS Oakland Apartments, LLC ("Permittee") for a section of the paved parking lot, also known as Lot 11, located on the northwest corner of the intersection of Embarcadero West Street and Webster Street.

B. Permittee is constructing an apartment building on the privately owned land adjacent to the parking lot and uses the premises for purposes of (i) placement, maintenance, and dismantling of above grade scaffolding, and (ii) access to the construction site for Permittee's crews and for lightweight equipment and machinery that support the construction work.

C. The TRA commenced on January 1, 2018, and will expire on December 31, 2018.

D. In consideration for the TRA extension, Permittee will (i) pay rent in the amount of \$1,530 per month and (ii) repair any damage to the asphalt, apply a coat of slurry seal, and re-stripe the entire parking lot at an estimated cost of \$15,000. Permittee will also deposit a security deposit of \$15,000 and pay the Port a non-refundable administrative fee of \$5,000 for the cost of preparing the TRA amendment.

E. The proposal to authorize the Executive Director to execute an amendment to extend the term of the TRA with Permittee for the purpose of staging construction materials and equipment has been reviewed in accordance with the requirements of the California Environmental Quality Act ("CEQA"), and the Port's CEQA Guidelines. The proposed amendment to the TRA is categorically exempt from CEQA pursuant to Section 15301 of the Port's CEQA Guidelines, Existing Facilities, which exempts the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. No changes to the premises or use are proposed.

SECTION 3. The Board approves the extension of the TRA as set forth in the Agenda Report and authorizes the Executive Director to execute an amendment to the TRA with Permittee up to December 31, 2019, with the option to terminate after four months up to thirty days' notice by either party, at a rental of \$1,530 per month with a \$15,000 security deposit and Permittee's covenant to repair any damage to the asphalt on the premises, slurry seal the premises, and re-stripe the entire parking lot.

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. This ordinance approves and authorizes the execution of an agreement in accordance with the terms of this ordinance. Unless and until a separate written agreement is duly executed on behalf of the Board as authorized by this ordinance, is signed and approved as to form and legality by the Port Attorney, and is delivered to other contracting party, there shall be no valid or effective agreement.

The Board of Port Commissioners, Oakland, California, November 29, 2018. Passed to print for one day by the following vote: Ayes: Commissioners Colbruno, Cluver, Lee, Martinez, Story and President Butner - 6 Noes: 0.

Daria Edgerly

Secretary of the Board