

PORT ORDINANCE NO. 4504

ORDINANCE AUTHORIZING AND APPROVING EXTENSION OF TEMPORARY RENTAL AGREEMENT WITH PACIFIC GAS & ELECTRIC COMPANY FROM JANUARY 1, 2019, THROUGH OCTOBER 31, 2019, FOR CONSTRUCTION STAGING ON 25,396 SQUARE FEET OF THE PREMISES LOCATED AT LIVINGSTON STREET AND EMBARCADERO ROAD AT A MONTHLY RENTAL RATE OF \$6,153.

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") with Pacific Gas & Electric Company ("PG&E") as set forth in the Agenda Report for Agenda Item 2.4, dated November 29, 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 has an existing TRA with PG&E that is set to expire on December 31, 2019 to store water storage containers, pipe materials, and construction equipment on 25,396 square feet of Port property located on the northeasterly corner of Livingston Street and Embarcadero Road in connection with PG&E's city-wide natural gas pipeline replacement project.

B. PG&E currently pays the Port \$6,016.31 per month for the use of the premises and wishes to extend the term of the TRA through October 31, 2019. The current Port target rental rate for this area is \$6,153 per month, and Port staff propose extending the TRA at the current target rental rate of \$6,153 per month.

C. As further consideration for the extension, PG&E's security deposit will be \$18,459, and PG&E will continue to be responsible for all maintenance on the premises.

D. The proposal to authorize the Executive Director to execute an amendment to extend the term of the TRA with PG&E 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 PG&E through October 31, 2019, at a monthly rental of \$6,153 per month with a security deposit of \$18,459 and PG&E's continued covenant to assume responsibility for all maintenance on the 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. 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