

PORT ORDINANCE NO. 4509

ORDINANCE CONSENTING TO EXTEND ON A MONTH-TO-MONTH BASIS THE EXISTING LEASE WITH KAISERAIR, INC. FOR THE PREMISES AND FACILITIES, INCLUDING HANGAR 3 WEST, HANGAR 4 AND RELATED AIRFIELD AIRCRAFT APRON AND MOTOR VEHICLE PARKING SPACES, TO ADJUST MINIMUM RENT TO FAIR MARKET RENTAL VALUE OF \$107,546 PER MONTH AND TO INCREASE THE SECURITY DEPOSIT TO \$350,000.

WHEREAS, KaiserAir, Inc. ("KaiserAir") and the Port of Oakland ("Port") entered into a long-term Lease dated December 1, 1998 ("Lease") for premises on the North Field of Oakland International Airport used for aircraft apron, hangar, office, shop, storage, and vehicle parking, serving as a fixed base operator, and commonly referred to as Hangar 3 West and Hangar 4 ("Premises"); and

WHEREAS, the initial term of the Lease was ten years, with an effective date of February 1, 1999, subject to KaiserAir's option to extend the term for an additional ten years; and

WHEREAS, pursuant to a First Supplemental Agreement, among other issues, the exercise of the option was acknowledged by the Port and KaiserAir, which extended the term through January 31, 2019; and

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 December 13, 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 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 consents to a month-to-month holdover of the expiring term of the Lease with KaiserAir for the Premises, approves the adjustment of minimum rent based on fair market rental value to \$107,546.37 per month, which would not include the value of reverted improvements in the calculation of minimum rent, and approves the increase in security deposit to \$350,000, which is approximately two-times the Port's monthly billings to KaiserAir (vs. the three-times monthly billing as required by Port Policy No. AP509 which amount may be lowered by Board approval), as described in the Agenda Report.

Section 3. The Board hereby authorizes the Executive Director to execute any necessary documents to effectuate the above, subject to approval as to form and legality by the Port Attorney.

Section 4. The Board hereby finds and determines that the extension of the Lease is categorically exempt from the California Environmental Quality Act ("CEQA") Guidelines pursuant to Section 15301, 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.

Section 5. This ordinance is not evidence of and does not create or constitute (a) a contract(s), 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 contract 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 other contracting party, there shall be no valid or effective contract.

The Board of Port Commissioners, Oakland, California, December 13, 2018. Passed to print for one day by the following vote: Ayes: Commissioners Colbruno, Cluver, Lee, Leslie, Martinez, Story and President Butner - 7. Noes: 0.

Daria Edgerly

Secretary of the Board