

PORT ORDINANCE NO. 4541

ORDINANCE APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO ENTER INTO A TEMPORARY LICENSE AGREEMENT WITH ALAMEDA COUNTY TRANSPORTATION COMMISSION FOR CERTAIN PORT LANDS LOCATED ALONG 7<sup>TH</sup> STREET NEAR THE INTERSECTION OF 7<sup>TH</sup> STREET AND MARITIME STREET PROVIDING FOR VARIOUS ACTIVITIES IN SUPPORT OF THE CONSTRUCTION OF THE 7<sup>TH</sup> STREET GRADE SEPARATION EAST PROJECT THROUGH DECEMBER 31, 2024.

**WHEREAS**, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report for Agenda Item No. 3.2, dated November 21, 2019 and related agenda materials ("Agenda Report"), has received the expert testimony of Port of Oakland ("Port") staff, and has provided opportunities for and taken public comment; and

**WHEREAS**, the Port and the Alameda County Transportation Commission ("Alameda CTC") have been working together to develop and implement a suite of freight transportation projects known as the GoPort Program ("GoPort Program"). The **GoPort Program** consists of three distinct projects: The Freight Intelligent Transportation System ("FITS") project; the 7<sup>th</sup> Street Grade Separation Project West; and the **7<sup>th</sup> Street Grade Separation East Project ("7<sup>th</sup> Street East Project")**; and

**WHEREAS**, that 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; now, therefore

**BE IT ORDAINED** by the Board of Port Commissioners of the City of Oakland as follows:

**Section 1.** Based upon the information contained in the Agenda Report and in testimony received, the Board finds and determines that the proposed actions were reviewed in accordance with the requirements of the California Environmental Quality Act ("CEQA"), and no supplemental review is required under Section 15162 of the CEQA Guidelines. The 2002 Oakland Army Base Area ("OAB") Redevelopment Plan Environmental Impact Report ("2002 Redevelopment EIR") evaluated the potential impacts of redevelopment of the 1,800-acre redevelopment area, which included the Port locations for the FITS Project components. The EIR was certified by the lead agency, the City of Oakland, in June 2002. On September 17, 2002, the Board of Port Commissioners, acting on behalf of the Port of Oakland as a responsible agency under CEQA, adopted findings and the mitigation program in the City's EIR (Resolution No. 02317). In 2012, the City of Oakland, in consultation with the Port, issued an Initial Study/Addendum to the Redevelopment EIR to evaluate proposed changes to the redevelopment plan. The Board of Port Commissioners approved the

revised redevelopment plan and adopted the revised mitigation program on June 21, 2012 (Resolution No. 12-76). The **7<sup>th</sup> Street East Project** was included in the 2002 Redevelopment EIR and the 2012 Addendum. No supplemental review is required under Section 15162 of the CEQA Guidelines. The Port prepared an Addendum per Section 15164 of the CEQA Guidelines to document minor changes as described in the 2002 Redevelopment Plan as addended.

**Section 2.** The Board hereby:

A. Approves and authorizes the Executive Director to enter into a temporary license agreement with Alameda CTC for certain Port property located along 7<sup>th</sup> Street near the intersection of 7<sup>th</sup> Street and Maritime Street, providing for various activities in support of the **7<sup>th</sup> Street East Project** for no cost and for a term not to extend beyond December 31, 2024, as further described in the Agenda Report and provided that all agreements are approved as to form and legality by the Port Attorney; and

B. Directs Port staff to encourage Alameda CTC to consider resiliency and climate change in the design and construction of the **7<sup>th</sup> Street East Project** and directs Port staff to take climate change and resiliency by design into consideration on all Port projects.

**Section 3.** 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 a contract in accordance with the terms of this ordinance. 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, November 21, 2019. Passed to print for one day by the following vote: Ayes: Commissioners Colbruno, Leslie, Martinez, Story and President Butner - 5. Excused: Commissioners Cluver and Lee - 2. Noes: 0.

Daria Edgerly

Secretary of the Board