

PORT ORDINANCE NO. 4551

ORDINANCE APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE AN AMENDMENT TO LEASE WITH GSC LOGISTICS, INC. TO EXPAND ITS PREMISES LOCATED AT 530 WATER STREET, 5TH FLOOR, BY AN ADDITIONAL APPROXIMATELY 3,487 SQUARE FEET FOR AN ADDITIONAL FIXED MONTHLY RENT OF \$12,952.53 AND AN ADDITIONAL MONTHLY BUILDING OPERATING / COMMON AREA EXPENSE REIMBURSEMENT OF \$230.84, AND TERMINATE ITS LICENSE AND CONCESSION AGREEMENT FOR GROUND FLOOR OFFICE SPACE AT 516 WATER STREET.

WHEREAS, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the Agenda Report for Agenda Item 2.6, dated January 23, 2020 (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; and

WHEREAS, Section 706 of the City of Oakland ("City") Charter gives to the Board the complete and exclusive power and duty for and on behalf of the City to make provisions for the needs of commerce, shipping, and navigation of the Port and to promote the development, construction, and operation of all waterfront properties, including piers, wharves, sea walls, docks, and other improvements; and

WHEREAS, the proposed action is consistent with the Port's duty to use and manage Port property in trust for the people of the State of California (the "Tidelands Trust"), and the private use of Port property pursuant to the proposed agreement will not interfere with the Tidelands Trust; 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. GSC Logistics, Inc. ("GSC") is an existing Lessee to a lease ("Lease"), which commenced in February 2006, for approximately 7,777 square feet of space on the 5th floor of 530 Water Street, Oakland. GSC is also party to an Antenna Site License Agreement dated January 1, 2017 for a rooftop antenna on 530 Water Street and is a Licensee under a License and Concession Agreement dated April 15, 2018 for approximately 1,918 square feet of office space located at 516 Water Street. The Lease, Antenna Site License Agreement, and License and Concession Agreement will expire on June 30, 2023.

B. GSC wishes to expand their premises on the 5th floor of 530 Water Street to include space recently vacated by the National Railroad Passenger Corporation ("Amtrak") and had duly exercised its right of first offer to lease such vacated space.

C. Port staff have negotiated and recommend entering into an amendment to the Lease and to terminate the License and Concession Agreement for the 516 Water Street office space under the following terms, as further described in the Agenda Report:

- a. Expansion Premises: Approximately 3,487 square feet on the 5th floor, 530 Water Street.
- b. Effective Dates: Expansion Premises (April 1, 2020) and Increased Rent (April 23, 2020) ("Increased Rent Effective Date"), as such dates may be extended proportionally by up to 60 days by the Executive Director or his designee.
- c. Total Fixed Monthly Rent for 5th Floor Premises: \$28,836.91 from April 1-23, 2020 and \$41,789.44 from April 23 through May 2020, as further increased as described in the Agenda Report.
- d. Common Area Maintenance and Operating Expenses Reimbursement ("CAM"): An additional \$230.84 beginning on the Increased Rent Effective Date, with total CAM increasing by 5% on January 1, 2021 and every year thereafter.
- e. Lessee's Work: GSC to install new flooring and paint the Expansion Premises prior to occupying such premises.
- f. 516 Water Street License and Concession Agreement: Will terminate on the later of: (a) the Increased Rent Effective Date; or (b) the date GSC moves out of the 516 Water Street premises.

D. The Board further finds and determines that the proposed approval is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Section 15301 of the CEQA Guidelines, which exempts the execution of leases or agreements where the premises or licensed activity was previously leased or licensed to the same or another person, and involving negligible or no expansion of use beyond that previously existing.

Section 3. The Board hereby approves, and authorizes the Executive Director or his designee to execute all documents necessary to consummate, the proposed transactions with **GSC Logistics, Inc.** for the premises located on the 5th Floor of 530 Water Street and at 516 Water Street, as further described in the Agenda Report, subject to approval as to form and legality by the Port Attorney. Furthermore, if the consummating documents are not fully executed within thirty (30) days after the effective date of the Board's approval, the approval shall be

null and void unless extended at the sole and absolute discretion of the Executive Director of his designee.

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, January 23, 2020. Passed to print for one day by the following vote: Ayes: Commissioners Cluver, Colbruno, Lee, Leslie, Martinez, Story and President Butner - 7. Noes: 0.

Daria Edgerly

Secretary of the Board