

PORT ORDINANCE NO. 4581

ORDINANCE APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A LICENSE AND CONCESSION AGREEMENT WITH OAKLAND DIGITAL ARTS AND LITERACY CENTER, INC., DBA BRIDGEGOOD, FOR A FIVE-YEAR TERM COMMENCING JANUARY 1, 2021, THROUGH DECEMBER 31, 2025, WITH A THREE-YEAR MUTUALLY AGREED UPON OPTION FOR 2,600 SQUARE FEET OF PREMISES AT 95 WASHINGTON STREET, OAKLAND, CALIFORNIA WITH AN INITIAL MONTHLY RENT OF \$2,700, AND A MONTHLY COMMON AREA EXPENSE REIMBURSEMENT OF \$800.

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 3, 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 approval will promote commerce and navigation, provide service for members of the public who use the waterfront, and is consistent with the Port's duty to use and manage Port property in trust for the State of California (the "Tidelands Trust"), and private uses of Port property pursuant to the proposed approval will not interfere with the Tidelands Trust; and

WHEREAS, in acting upon the matters contained herein, the Board has exercised its independent judgment based on substantial evidence in the record and adopts and relies upon the facts, data, analysis, findings, and conditions set forth in the Agenda Report and in related 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. The Board finds and determines that the proposed License and Concession Agreement ("L&C") with Oakland Digital Arts and Literacy Center, Inc. dba BRIDGEGOOD ("BRIDGEGOOD") to occupy and use the premises consisting of approximately 2,600 square feet of ground floor office space located at 95 Washington Street, Oakland, California (the "Premises") is categorically exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Section 15301 of the CEQA Guidelines 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 2. The Premises have been leased sporadically over the past ten years on a short-term basis and is currently vacant. BRIDGEGOOD, a 501(c) (3) nonprofit organization that prepares underserved community members for careers in the competitive graphic and visual design job market, approached the Port to lease the Premises to create a community design studio and collaborative co-working space for the community members it serves. Port staff recommend an L&C with BRIDGEGOOD for the Premises under the following terms:

- i. Premises: 95 Washington Street, Oakland, consisting of approximately 2,600 square feet of ground floor office space;
- ii. Term: January 1, 2021, through December 31, 2025, with one mutually agreed option to extend for an additional three years;
- iii. Use: Community design studio and collaborative co-working space;
- iv. Performance Deposit: Equal to three times the Monthly Rent;
- v. Monthly Rent: \$2,700/month (with 3% annual increases until year 4, in which the rent is increased to \$3,723.76 with 3% annual increases for the remainder of the term);
- vi. Common Area Expense Reimbursement: \$800/month;
- vii. Tenant Improvements: No tenant improvement or rent credit provided by the Port; and
- viii. Maintenance and Utilities: The Port shall be responsible for maintaining and repairing the floor slab, foundation, and structural aspects of columns, exterior walls, and the roof for the Premises, as well as anything outside of the Premises. BRIDGEGOOD is responsible for all other maintenance. The Port is responsible for utilities.

Section 3. The Board hereby authorizes the Executive Director or his designee to execute the proposed L&C with BRIDGEGOOD, as described in the Agenda Report, subject to approval as to form and legality by the Port Attorney. Furthermore, if the proposed L&C is not fully executed within thirty (30) days after the effective date of this ordinance, the Board's approval shall be null and void, unless extended in the sole and absolute discretion of the Executive Director or 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 Port. 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.

Section 5. This ordinance shall take effect on the date of its final adoption; provided, however, that if a petition protesting the adoption of this ordinance is timely and duly submitted to the elections official of the City of Oakland in the manner required under California Elections Code § 9237, the effective date of this ordinance shall be suspended, and all actions authorized by this ordinance shall be null and void.

The Board of Port Commissioners, Oakland, California, December 3, 2020. Passed to print for one day by the following vote: Ayes: Commissioners Butner, Colbruno, Lee, Leslie, Martinez, Story and President Cluver - 7. Noes: 0.

Daria Edgerly

Secretary of the Board