

  
CITY ATTORNEY'S OFFICE

# OAKLAND CITY COUNCIL

**ORDINANCE NO. \_\_\_\_\_ C.M.S.**

**AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A FIRST AMENDMENT TO THE TRIPLE NET LEASE DATED APRIL 8, 2016, BETWEEN THE CITY OF OAKLAND AND OAKLAND MARITIME SUPPORT SERVICES, INC., OF 10 BURMA ROAD FOR TRUCK PARKING AND OTHER SPECIFIED USES TO EXTEND THE TERM FOR ONE YEAR WITH ADDITIONAL RENT IN THE AMOUNT OF \$7,500 PER MONTH COMMENCING ON THE FOURTH MONTH OF THE EXTENSION; AND ADOPTING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS**

**WHEREAS**, the City of Oakland (“City”), as landlord, and Oakland Maritime Support Services, Inc., a California corporation (“Oakland Maritime”), as tenant, entered into that certain Triple Net Lease dated April 8, 2016 (“Interim Lease”) of a portion of approximately five (5)-acre truck parking area located at 10 Burma Road on the former Oakland Army base (“Premises”); and

**WHEREAS**, Section 20 of the Interim Lease allows subleasing subject to landlord’s consent; and

**WHEREAS**, Oakland Maritime submitted a request for the City’s consent to a sublease (“Sublease”) with Nikola Properties, LLC, a California limited liability company (“Nikola”), for installation and operation of a mobile hydrogen facility by Nikola at the Premises for a Fifteen Thousand Dollars (\$15,000) per month sublease rent (“Sublease Rent”) to be paid to Oakland Maritime; and

**WHEREAS**, staff has negotiated terms for a one (1)-year extension of the Interim Lease for which Oakland Maritime would pay to the City fifty percent (50%) of the Sublease Rent per month as additional rent under the Interim Lease commencing on the fourth (4th) month of the sublease, which would be in addition to base rent Oakland Maritime is obligated to pay to the City under the Interim Lease; and

**WHEREAS**, the City and Oakland Maritime desire to amend the Interim Lease on the foregoing terms; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**SECTION 1.** The City Council hereby finds that it is in the best interests of the City to enter into an amendment of the Interim Lease.

**SECTION 2.** The City Council hereby authorizes the City Administrator to negotiate and execute: (a) a one (1)-year extension of the Interim Lease, commencing on October 4, 2023 and expiring on October 3, 2024, with addition rent in the amount of Seven Thousand Five Hundred Dollars (\$7,500) commencing on the fourth (4th) month of the extension; (b) such other additions, amendments or other modifications to the foregoing documents that the City Administrator, in consultation with the City Attorney's Office, determines are in the best interests of the City, do not materially increase the obligations or liabilities of the City, and are necessary or advisable to complete the transactions contemplated by this Ordinance; and (c) such other documents as necessary or appropriate, in consultation with the City Attorney's Office, to facilitate and consummate the transactions in accordance with this Ordinance, or to otherwise effectuate the purpose and intent of this Ordinance and its basic purpose.

**SECTION 3.** The City Council hereby authorizes that the lease payments required under the lease will be accepted to the OBRA Leasing & Utility Fund (5671), Oakland Army Base Redevelopment Organization (85244), OBRA Leasing & Utility Project (1001542), OARB Bay Bridge Gateway Program (SC07).

**SECTION 4.** This action is exempt under California Environmental Quality Act ("CEQA") Guidelines section 15063(b)(3) (common sense exemption) since the action under consideration is limited to an extension of a lease, an extension of an existing real estate contract with no possibility of an effect on the environment. On a separate and independent basis, any anticipated environmental effects of the Project were previously contemplated and adequately evaluated by the 2002 Oakland Army Base Redevelopment Plan Environmental Impact Report ("EIR"), as amended by the 2012 Addendum, together, the "2002 EIR/2012 Addendum". Therefore, in accordance with California Public Resources Code Section 21166 and CEQA Guidelines Section 15164, the 2002 EIR/2012 Addendum will comprise the full and complete CEQA evaluation necessary and no further CEQA evaluation will be required for this action.

**SECTION 5.** The recitals contained in this Ordinance are true and correct and are an integral part of the Council's decision.

**SECTION 6. Severability.** If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of the Chapter. The City Council hereby declares that it would have passed this Ordinance and each section, subsection, clause or phrase thereof irrespective of the fact that one or more other sections, subsections, clauses or phrases may be declared invalid or unconstitutional

**SECTION 7. Effective Date.** This ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – FIFE, GALLO, JENKINS, KALB, KAPLAN, RAMACHANDRAN, REID, AND  
PRESIDENT FORTUNATO BAS

NOES –

ABSENT –

ABSTENTION –

ATTEST: \_\_\_\_\_

ASHA REED  
City Clerk and Clerk of the Council of the  
City of Oakland, California

Date of Attestation: \_\_\_\_\_

## NOTICE AND DIGEST

**AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR TO NEGOTIATE AND EXECUTE A FIRST AMENDMENT TO THE TRIPLE NET LEASE DATED APRIL 8, 2016, BETWEEN THE CITY OF OAKLAND AND OAKLAND MARITIME SUPPORT SERVICES, INC., OF 10 BURMA ROAD FOR TRUCK PARKING AND OTHER SPECIFIED USES TO EXTEND THE TERM FOR ONE YEAR WITH ADDITIONAL RENT IN THE AMOUNT OF \$7,500 PER MONTH COMMENCING ON THE FOURTH MONTH OF THE EXTENSION; AND ADOPTING CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS**

This is an Ordinance (1) authorizing the City Administrator to negotiate and execute a first amendment of to the Triple Net Lease dated April 8, 2016, between the City of Oakland and Oakland Maritime Support Services, Inc., of property located at 10 Burma Road on the former Oakland Army Base, to extend the term for one (1)-year for additional rent of Seven Thousand Five Hundred Dollars (\$7,500) per month, commencing on the fourth (4th) month of the extension; and (2) adopting California Environmental Quality Act Findings.