



AGENDA REPORT

PROPOSED ACTION: Ordinance: Approve and Authorize the Executive Director to (1) Execute Second and Third Lease Amendments with U.S. Customs and Border Protection (CBP) for Office and Parking Space Located at 700 Maritime Street, Oakland, CA with a Maximum Lease Term Through June 30, 2028, Resulting in Annual Rent of \$0, and (2) Negotiate and Execute a Rental Agreement for a Modular Office Building for CBP, which cost shall be reflected in the Third CBP Lease Amendment; and Finding the Proposed Action is Exempt Under the California Environmental Quality Act. **(Maritime)**

Submitted By: Bryan Brandes, Director of Maritime; Danny Wan, Executive Director

Parties Involved: U.S. Customs and Border Protection

Heidi Yahr, Program Manager
Washington, D.C.

Amount: \$0 Annual Rent (Operating Revenue)

EXECUTIVE SUMMARY: The Port of Oakland (Port) entered into a lease with U.S. Customs and Border Protection (CBP) in 2016 for CBP's use of office and parking space at the corner of 7th Street and Maritime Street. CBP uses this leasehold for office space and vehicle/equipment parking to support CBP vessel and cargo inspection activities performed within the Port's Maritime area (Seaport). The current lease agreement will terminate on December 9, 2023. The lease extension Port staff recommends extending the lease term through June 30, 2028.

BACKGROUND & ANALYSIS

The Port entered into the current lease with CBP in 2016 for use of office and parking space at the corner of 7th Street and Maritime Street. CBP utilizes this leasehold for office space and vehicle/equipment parking to support CBP's vessel and cargo inspection activities performed within the Seaport.

The key terms of the current lease include:

- **Lease Term and Options to Extend:**
 - One-year initial term with six, one-year options that automatically extend unless terminated earlier by either party
 - Effective date was December 10, 2016 and expires on December 9, 2023
- **Use:** Office and vehicle/equipment parking space to support vessel and cargo inspection activities in the Seaport
- **Premises:** 10,880 square feet of office space (Buildings 504 and 504A) and 105 parking stalls at 700 Maritime Street, Oakland, CA 94607
- **Rent:** CBP leases this space rent-free

- Repairs, Maintenance, and Modular Office Rental:
 - Upon execution of the current lease, the Port performed approximately \$43,000 worth of repairs to the office space and parking lot which were reimbursed by CBP
 - CBP reimburses the Port approximately \$24,000 a year for the Port to perform general maintenance activities to the Premises including, but not limited to, replacement of light bulbs, various utility inspections and repairs, asphalt work, etc.
 - The Port rents a modular office building (Building 504A) located on the Premises; the monthly rental cost is currently approximately \$5,669 which is reimbursed to the Port by CBP
- Termination Rights:
 - CBP may terminate the lease with 90-days' advance notice
 - The Port may terminate the lease with 90-days' advance notice only if Port requires the Premises for construction of the 7th Street Grade Separation West Project (7SGSWP); the current start date for 7SGSWP construction is unknown
- Security Deposit: \$0 given CBP is a federal agency
- Utilities: CBP is responsible for all utility costs

In 2017, the Board of Port Commissioners (Board) approved the First Amendment to the current lease. The First Amendment authorized the Port to spend \$30,000, which was then reimbursed by CBP, to rent a mobile air conditioning unit for three months at Building 504 because the fixed unit had failed. This expenditure also covered the Port's costs to install the portable unit. CBP has since continued to rent a mobile air conditioning unit at CBP's cost.

In 2022, CBP approached the Port requesting a Second and Third Amendment to the current lease primarily to extend the term and make other minor modifications (the subjects of this Agenda Report). A summary of proposed Lease Amendments Two and Three are as follows:

- Lease Term and Options to Extend (**Proposed Lease Amendment Two**):
 - Extend the term of the lease through June 30, 2028, by the addition of five Option Years. The lease renews automatically on the first day of each Option Year unless the lease is terminated by either party in accordance with the limitations of the Current Lease:
 - Option Year 7: December 10, 2023 – June 30, 2024
 - Option Year 8: July 1, 2024 – June 30, 2025
 - Option Year 9: July 1, 2025 – June 30, 2026
 - Option Year 10: July 1, 2026 – June 30, 2027
 - Option Year 11: July 1, 2027 – June 30, 2028
- Use:
 - No change
- Premises:
 - No change

- Rent:
 - No change
- Repairs, Maintenance, and Modular Office Rental:
 - CBP to reimburse the Port \$31,500 per year for the Port to perform general maintenance activities to the Premises including, but not limited to, replacement of light bulbs, various utility inspections and repairs, asphalt work, etc.
 - The Port continues to rent a modular office building (Building 504A) located on the Premises. As noted above, the monthly rental cost is currently \$5,669, which is reimbursed to the Port by CBP. The current agreement for the modular office building rental expires at the end of 2023. As of the date of this agenda report, the vendor has not provided a proposal to extend the rental because it is too far in advance of the rental expiration date.
- Termination Rights:
 - No change
- Security Deposit:
 - No change
- Utilities:
 - No change

▪ Future Modular Office Rental (**Proposed Lease Amendment Three**):

Because CBP is contemplating making some improvements to the Premises (primarily the procurement and installation of a new heating and air conditioning system), CBP has requested timely execution of Lease Amendment Two. CBP recognizes that modular building rental costs are not yet available and, once available, a subsequent lease amendment will be required to incorporate the additional modular building rental costs. Port staff is seeking authorization for the Executive Director to (1) negotiate and execute a modular office building rental agreement during 2023 with the current vendor or alternative vendor; and (2) execute a subsequent lease amendment (Lease Amendment Three) with CBP to update the costs of the modular office building rental for which CBP will reimburse the Port in full.

No other changes would be allowed as part of Lease Amendment Three without additional Board approval.

OTHER FINDINGS AND PROVISIONS

ENVIRONMENTAL REVIEW

The proposed action was analyzed under the California Environmental Quality Act (CEQA) and was found to be:

- ☒ Categorically exempt under the following CEQA Guidelines Section:
15301 (Existing Facilities)
- ☐ Not a "Project" under CEQA, as defined in Public Resources Code § 21065.
- ☒ Other/Notes: A lease amendment for an existing tenant to continue their current business operations meets the criteria of this exemption.

BUDGET

☒ Administrative (No Impact to Operating, Non-Operating, or Capital Budgets); OR

☐ Operating

☐ Non-Operating

☐ Capital

Analysis: There is no impact to Port operating budget.

STAFFING

☒ No Anticipated Staffing Impact.

☐ Anticipated Change to Budgeted Headcount.

Reason:

☐ Other Anticipated Staffing Impact (e.g., Temp Help).

Reason:

MARITIME AND AVIATION PROJECT LABOR AGREEMENT (MAPLA):

Applies? No (Not Aviation or Maritime CIP Project) – proposed action is not covered work on Port's Capital Improvement Program in Aviation or Maritime areas above the threshold cost.

☐ Additional Notes:

LIVING WAGE (City Charter § 728):

Applies?

No (No Covered Agreement) – proposed action is not an agreement, contract, lease, or request to provide financial assistance within the meaning of the Living Wage requirements.

☐ Additional Notes:

SUSTAINABLE OPPORTUNITIES:

Applies? **No.**

GENERAL PLAN (City Charter § 727):

Conformity Determination:

No Project – conformity determination not required because proposed action does not change use of or make alterations to an existing facility, or create a new facility.

Reason: The tenant has not proposed any development for the leased area. If the tenant decides to develop the site in the future, the tenant must comply with the 2000 Sustainability Policy and complete the Sustainability Opportunities Assessment Form.

STRATEGIC PLAN. The proposed action would help the Port achieve the following goal(s) and objective(s) in the Port's Strategic Business Plan:

- | | |
|--|--|
| <input type="checkbox"/> Grow Net Revenues | <input type="checkbox"/> Modernize and Maintain Infrastructure |
| <input checked="" type="checkbox"/> Improve Customer Service | <input type="checkbox"/> Pursue Employee Excellence |
| <input checked="" type="checkbox"/> Strengthen Safety and Security | <input type="checkbox"/> Serve Our Community |
| <input type="checkbox"/> Care for Our Environment | |

SEAPORT FACILITIES

