

BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND

2/9/17
Item 6.1
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ORDINANCE APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO ENTER INTO A SPACE ASSIGNMENT WITH UNITED INTERMODAL SERVICES, INC. FOR A TERM OF FIVE YEARS FOR APPROXIMATELY 6-ACRES ON THE ROUNDHOUSE PROPERTY.

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 February 9, 2017 (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; 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. The Port currently rents approximately 6-acres of paved and lighted land in the Roundhouse area to United Intermodal Services, Inc. ("UIS") on a short-term, month-to-month basis. The rental area is depicted on Exhibit A to this Agenda Report; and

B. Port staff have negotiated and recommend entering into a 5-year Space Assignment with UIS at an initial rent of \$0.205 per square foot per month (approximately \$54,000 per month or \$650,000 per year), subject to a 3% annual increase beginning on January 1, 2018; and

C. Each time monthly rent increases, UIS's security deposit will also increase to an amount equal to 3-months rent; and

D. UIS will be responsible for all maintenance, including asphalt maintenance, and repairing any damage to the leased area; and

E. Permitted uses will include container storage, container repair, reefer pre-tripping, container preparation for export and container cleaning for import; and

F. For the reasons stated in this ordinance, the Agenda Report, and other information received by the Board, the Board hereby finds and determines that the proposed 5-year Space Assignment with UIS is in the Port's best interest; and

G. The Board further finds and determines that the proposal to enter into a 5-year Space Assignment with UIS for container services at the Roundhouse property was reviewed in accordance with the requirements of the California Environmental Quality Act ("CEQA") and the Port CEQA Guidelines. The proposed Space Assignment is similar to activities described and analyzed in the *Final Initial Study/Negative Declaration for the Roundhouse Area Improvements Project* ("Roundhouse IS/ND"), which was adopted by the Board on April 14, 2016 by Resolution No. 16-43. The project described in the Roundhouse IS/ND included leasing, operation, construction and maintenance of a rail-served grain transloading operation as well as bulk cargo transloading facilities, warehousing, truck parking, cargo and equipment storage and expansion of the adjacent marine terminal. The proposed UIS Space Assignment will allow container depot, trucking and other maritime support services similar to those described in the Roundhouse IS/ND. Therefore, the Roundhouse IS/ND adequately covers this project under CEQA and no additional review is required; and

H. The Roundhouse property is under the oversight of the Regional Water Quality Control Board ("RWQCB") (Geotracker site SL18339759) due to petroleum products in soil and groundwater, remaining from the site's former use by Western Pacific and Union Pacific Railroads. A deed restriction on the Roundhouse property prohibits certain land uses and activities, such as groundwater extraction and excavation or soil disturbance without RWQCB review and approval. This deed restriction also requires compliance with a Site Management Plan, and requires surface covers, among other conditions. The RWQCB considers this site closed. UIS will be required to comply with the Site Management Plan and all other conditions. See http://geotracker.waterboards.ca.gov/regulators/deliverable_documents/7523511588/UPRRRoundhousedeedrestriction.pdf for the deed restriction.

Section 3. The Board hereby authorizes the Executive Director or his designee to execute the proposed Space Assignment with UIS and to make minor amendments thereto consistent with the intent of this ordinance and the Agenda Report, subject to approval as to form and legality by the Port Attorney.

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.

DRAFT

President.

Attest: _____
Secretary.

Approved as to form and legality:

Port Attorney