



AGENDA REPORT

PROPOSED ACTION: Ordinance: Approve and Authorize the Executive Director to Execute a First Supplemental Agreement to the Lease with Pacific Layberthing South, LLC, for Water and Land Area at Berth 68, to Extend the Maximum Term by Six Months through April 30, 2025, Resulting in Additional Revenue of \$271,500, and Find that 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: Pacific Layberthing South, LLC, Jacksonville, FL Bill Burgstiner, President	Amount: \$271,500 (Operating Revenue)
EXECUTIVE SUMMARY: The Port of Oakland (Port) currently leases water and land area at Howard Terminal (Berth 68) to Pacific Layberthing South, LLC (PLS) for the purposes of laying up (i.e., extended berthing) of the Military Sealift Command (MSC) vessel USNS John Glenn. The maximum term of the lease was three years and six months, through October 31, 2024. Port Staff and PLS have negotiated a First Supplemental Agreement to extend the maximum term of the lease by an additional six months through April 30, 2025.	

BACKGROUND & ANALYSIS

The United States (U.S.) Navy MSC owns and operates several vessels that are placed into service on an as-needed basis to support the needs of the Federal Government. When these vessels are not actively in service, they are typically laid up in various ports throughout the U.S. where they are maintained in an operational status so they can be deployed upon short notice.

Since the late 1980’s, PLS and its affiliates have been in the business of providing berthing space and services to lay up vessels for MSC (and other entities) in port complexes throughout the U.S., including the Port. The Port and PLS entered into a long-term lease effective March 1, 2021, for the layberthing of the USNS John Glenn at Berth 68. Current key terms of the lease include:

- **Premises.** Approximately 930 linear feet of dock space, 119,040 square feet of water area, and 57,660 square feet of adjacent yard space at Howard Terminal, Berth 68.
- **Use of Premises.** Layberthing of the USNS John Glenn.
- **Term.** Expires October 31, 2024.
- **Relocation/Termination.** The Port can relocate the USNS John Glenn, at Lessee’s sole cost, with six months’ advance notice during the term of the lease; PLS can terminate the lease with 60 days’ advance notice in the event the Federal Government terminates its lease with PLS.

- **Compensation.** Fixed monthly rent of \$1,400/day (\$512,400 annualized).
- **Performance Deposit.** \$72,000.
- **Improvements, Maintenance, and Utilities.** PLS is responsible for the cost, installation and maintenance of all improvements at Berth 68, and must remove its improvements at the end of the lease term. PLS is also responsible to pay for all utility costs including shore power.

Recently, PLS approached the Port advising the Federal Government had requested a term extension to the lease. The Port and PLS have negotiated a First Supplemental Agreement to the lease that provides the following changes and/or additions to key terms:

- **Term.** One, six-month extension effective November 1, 2024, and expiring on April 30, 2025.
- **Relocation/Termination.** The Port no longer has a relocation right. PLS still retains the right to terminate the lease with 60 days' advance notice in the event the Federal Government terminates its lease with PLS.
- **Compensation.** Fixed monthly rent of \$1,500/day, or \$271,500 during the proposed term extension.
- **Performance Deposit.** Shall be equal to two months' rent, which would be \$90,000.
- **Improvements, Maintenance, and Utilities.** Effective January 1, 2025, PLS will pay the Port \$4,100 per month for shore power maintenance. This negotiated amount is fifty percent of the amount applicable to the premises as set forth in Tariff No. 2-A. Port Staff supports this negotiated amount because, uniquely, PLS installed and maintains (at its sole cost) additional shore power infrastructure to connect the USNS John Glenn to shore power to help the Port achieve its zero emissions goals.

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.
- "Common Sense" exemption under CEQA Guidelines Section 15061(b)(3).
- Other/Notes: Amending leases for existing tenants to continue their current business operations meets the criteria for this exemption.

BUDGET

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

Analysis: The proposed First Supplemental Agreement to the lease with PLS will result in revenue of \$1,500/day, or \$271,500 during the extended term. Revenue from the proposed term extension is included in the FY 2025 Maritime Division operating revenue 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 (Not Covered Entity) – proposed action involves entity not covered by Living Wage requirements because it is not a covered service provider or tenant, does not employ at least 21 employees, or receive from or pay to Port at least \$50,000.

- Additional Notes:

<p><u>SUSTAINABLE OPPORTUNITIES:</u></p> <p><u>Applies?</u> Yes.</p> <p><u>Reason:</u> The USNS John Glenn will use shore power while at berth; the proposed First Supplemental Agreement to the lease incorporates the latest form of Environmental Exhibit.</p>	<p><u>GENERAL PLAN</u> (City Charter § 727):</p> <p><u>Conformity Determination:</u></p> <p>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.</p>								
<p><u>STRATEGIC PLAN.</u> The proposed action would help the Port achieve the following goal(s) and objective(s) in the Port’s Strategic Business Plan:</p> <table border="0"> <tr> <td><input checked="" type="checkbox"/> Grow Net Revenues</td> <td><input type="checkbox"/> Modernize and Maintain Infrastructure</td> </tr> <tr> <td><input type="checkbox"/> Improve Customer Service</td> <td><input type="checkbox"/> Pursue Employee Excellence</td> </tr> <tr> <td><input type="checkbox"/> Strengthen Safety and Security</td> <td><input type="checkbox"/> Serve Our Community</td> </tr> <tr> <td><input type="checkbox"/> Care for Our Environment</td> <td></td> </tr> </table>		<input checked="" type="checkbox"/> Grow Net Revenues	<input type="checkbox"/> Modernize and Maintain Infrastructure	<input type="checkbox"/> Improve Customer Service	<input type="checkbox"/> Pursue Employee Excellence	<input type="checkbox"/> Strengthen Safety and Security	<input type="checkbox"/> Serve Our Community	<input type="checkbox"/> Care for Our Environment	
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