

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

3/13/2025
Item No.: 6.3
RS/pcm

MR

ORDINANCE APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A SECOND AMENDMENT TO THE TEMPORARY LICENSE AGREEMENT WITH PACIFIC CRANE MAINTENANCE COMPANY, LLC FOR LAND AND OFFICE SPACE AT HOWARD TERMINAL, TO EXTEND THE TERM BY SIX MONTHS THROUGH JULY 25, 2025, RESULTING IN ADDITIONAL REVENUE OF APPROXIMATELY \$85,170; AND FINDING THAT THE PROPOSED ACTION IS EXEMPT UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT.

WHEREAS, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the Agenda Report for Agenda Item 6.3, dated March 13, 2025, (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 action will provide important services for customers of the Port, and is consistent with the Port's duty to use and manage Port property in trust for the people of the State of California (the "Tidelands Trust"), and the private use of Port property in the form of a lease will not interfere with the Tidelands Trust; and

WHEREAS, the Port and Pacific Crane Maintenance Company, LLC, a Delaware limited liability company ("Licensee") are parties to a temporary license agreement ("License") dated January 13, 2024, as amended by a first amendment to the License dated July 16, 2024, for Licensee to operate a container storage yard on premises at Howard Terminal in the Port Area of the City of Oakland consisting of approximately 66,875 square feet of land and approximately 720 square feet of office space, as more particularly described in the License; and

WHEREAS, the Port and Licensee have agreed that it is to their mutual benefit to extend the term of the License, which would result in approximately \$85,170 of revenue, assuming neither party terminates the License prior to July 12, 2025;

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 proposed Second Amendment to the License Agreement is exempt from the requirements of the California Environmental Quality Act ("CEQA") because the proposed actions consist of leasing of existing structures, facilities, mechanical equipment, or topographical features, involving negligible or no expansion of existing or former use, as further defined in Section 15301 of the CEQA Guidelines.

B. Port staff have negotiated and recommend entering into the Second Amendment to the License, which extends the term of the License for an additional six months through July 12, 2025, including extending the rent under the License, which is set at \$14,194.95 per month, reduced from the Tariff No. 2-A ("Tariff") then current rates which were approximately \$19,002.7 per month for the premises, and are currently approximately 32% lower than current Tariff rates ("Standard Rent"). Other terms and conditions of the Leases remain unchanged.

C. Payment of less than the Standard Rent in the Second Amendment to the License is reasonable in light of the proposed benefit to the Port.

Section 3. The Board hereby authorizes the Executive Director or her designee to execute the Second Amendment to the License with Licensee, as further described in 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 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.

DRAFT

President.

Attest: _____
Secretary.

Approved as to form and legality:

Port Attorney