



AGENDA REPORT

PROPOSED ACTION: Ordinance: Approve and Authorize the Executive Director to Execute a First Amendment to a License and Concession Agreement with Mary Ann Swift for the Premises Located at 1285 Embarcadero Road, to Assign the Agreement to Afterguard Sailing Academy, LLC and to Extend the Term for Three Years at an Initial Monthly Rent of \$6,287, and Finding that the Proposed Action is Exempt Under the California Environmental Quality Act.

Submitted By: Jonathan Veach, Chief Real Estate Officer; Danny Wan, Executive Director

Parties Involved: Afterguard Sailing Academy, LLC

Amount: \$6,287 initial monthly rent (revenue)

EXECUTIVE SUMMARY: The proposed First Amendment extends an existing License & Concession Agreement (Agreement) for three years, changes the entity from Mary Ann Swift, DBA Afterguard Sailing Academy to a separate LLC owned and controlled by Mary Ann Swift, and allows signage on the Premises located at 1285 Embarcadero Road.

BACKGROUND & ANALYSIS

The existing Port of Oakland (Port) owned property at 1285 Embarcadero Road in Oakland, includes a total of 12,377 square feet and consists of the following improvements: approximately 900 sq. ft. of office space, 4,586 sq. ft. of warehouse space, and approximately 6,891 sq. ft. of paved and fenced land (Premises). The Premises are currently leased by Mary Ann Swift, dba Afterguard Sailing Academy under a License and Concession Agreement dated April 27, 2021, which expires on April 30, 2024 (Agreement). Afterguard Sailing Academy has approached the Port with a desire to continue leasing the Premises for an additional three years under a new entity, Afterguard Sailing Academy, LLC, (Afterguard) which is solely owned and controlled by Mary Ann Swift.

Afterguard has utilized the Premises for maritime education focused on sailboat operation and safety, and related ancillary administrative purposes. Formed in 2003, Afterguard is an Oakland Unified School District provider of accredited youth education and plans to expand their current program to reach more schools, including an after-school ‘build a boat’ program. Afterguard teaches Basic Sailing instruction and beyond, providing an introduction for students into Cal Maritime, Bar Pilots, SF Bay Model, and other maritime related careers locally.

A site plan and map indicating the location of the premises is attached as Exhibit 1 to this report.

Afterguard's continued occupancy of this space is an appropriate and beneficial waterfront use of this existing asset and is consistent with the Port adopted Target Rental Rates. Furthermore, the Agreement will enable the Port to continue to receive revenue without interruption by any period of potential vacancy once the Agreement terminates and will enable a local business to continue their operation on the Premises.

The proposed key terms of the Agreement are as follows:

**Table 1
Proposed Terms**

Licensee	Afterguard Sailing Academy, LLC, with Mary Ann Swift remaining liable as a principal under the assigned Agreement.
Premises	Approximately 900 sq. ft. of office space, 4,586 sq. ft. of warehouse space, and approximately 6,891 sq. ft. of paved & fenced land located at 1285 Embarcadero Road, Oakland, as indicated in Exhibit 1.
Term	Commencing on May 1, 2024 and terminating on April 30, 2027.
Rent	\$6,287 per month with 4% annual increases.
Security Deposit	Three times' the monthly rent.
Maintenance	No Port maintenance or improvement responsibilities. Afterguard is responsible for all maintenance and utilities within the Premises, including removing or updating the existing sign on the Premises.
Proposed Use	Maritime education for sailboat operation and safety, and related ancillary administrative purposes.

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:

BUDGET

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

Analysis: Approval of the A/R will generate a \$1,492 positive variance compared to the Adopted Budget for FY 2024. The Budget assumed an increase of 2.9% compared to the realized 16.8% increase to make the rent consistent with CRE Target Rental Rates.

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 (CRE) – proposed action entails tenancy outside of the Maritime or Aviation areas and therefore not subject to Living Wage requirements.

- Additional Notes:

SUSTAINABLE OPPORTUNITIES:

Applies? **No.**

Reason:

GENERAL PLAN (City Charter § 727):

Conformity Determination:

CRE – proposed action is within City of Oakland’s planning jurisdiction and appears to conform to the General Plan.

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

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| <input checked="" 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 type="checkbox"/> Strengthen Safety and Security | <input type="checkbox"/> Serve Our Community |
| <input type="checkbox"/> Care for Our Environment | |