

## AGENDA REPORT

**Ordinance:** Authorize the Executive Director to Enter Into Leases with Pacific Layberthing South, LLC, at Berths 20/21 and Pacific Layberthing North, LLC at Berth 22, Each for a Term of Five Years (**Maritime**)

**MEETING DATE:** 6/22/2017

**AMOUNT:** \$1.0 million annually  
Revenue

**PARTIES INVOLVED:** William Burgstiner, Partner  
Pacific Layberthing South, LLC (California)  
Pacific Layberthing North, LLC (Oregon)

**SUBMITTED BY:** John C. Driscoll, Director of Maritime

**APPROVED BY:** J. Christopher Lytle, Executive Director

**ACTION TYPE:** Ordinance

### **EXECUTIVE SUMMARY**

Staff requests the Board's authorization to enter into a lease with Pacific Layberthing South, LLC (PLS) at Berths 20/21 and a lease with Pacific Layberthing North, LLC (PLN) at Berth 22, each for a term of 5 years, for the purpose of laying up (i.e., extended berthing) the Maritime Administration (MARAD) vessel Cape Mohican and two Military Sealift Command (MSC) Bob Hope class vessels.

### **BACKGROUND**

The Maritime Administration (MARAD) and Military Sealift Command (MSC) own several vessels that are part of the Ready Reserve Fleet. These vessels are laid up in various Ports throughout the United States (U.S.) in case there is a need for them in time of war or international crisis. PLS and PLN have been laying up some of these vessels in various U.S. Ports since 1987.

One of these vessels, the Cape Mohican, is currently laid up in San Francisco and needs to be relocated due to navigation conflicts. MARAD, through its contractor PLS, has inspected Berths 20/21 in the Port's Outer Harbor and has determined that this berth will meet its needs for the Cape Mohican.

Separately, PLN is bidding on two MSC vessels currently located in the Pacific Northwest with the intention laying them up at the Port's Berth 22. PLN is confident that approval of the lease

requested herein will help it win the current bid. Should PLN not win the bid, then the lease would not proceed. Refer to Exhibit A for the location of the proposed leases.

## **ANALYSIS**

The closure of the Outer Harbor Terminal has created an opportunity to lease out Berths 20/21. Due to the age and current condition of the wharf serving these berths, the berths have limited utility. The lay up of small vessels is well suited to this part of the Port's Outer Harbor. Berth 22 is in far better condition and could accommodate a number of uses.

For the Cape Mohican relocation to Berths 20/21, PLS and Port staff have negotiated a rate of \$800/day for five years. Before the vessel can berth, PLS will need to make and pay for substantial improvements to the fender system and to install electrical and potable water infrastructure, which Port Staff estimates will cost \$500,000. Rent would not increase over the term of the lease. The leasehold would include the majority of the water area at Berths 20/21, as well as about 2 acres of wharf (stringer area).

For the MSC vessels, PLN and Port staff have negotiated a rate of \$1,000/day/vessel for five years. Before the vessels can berth, PLN will need to make and pay for electrical and potable water infrastructure improvements estimated at \$600,000 for one vessel and \$450,000 for the second vessel. Rent would not increase over the term of the lease. The leasehold would include all the water area at Berth 22, as well as about 2 acres of wharf (stringer area).

Both leases are expected to commence on or about September 1, 2017. Prior to lease commencement, Staff plans to enter into two temporary rental agreements (TRAs) with PLS and PLN so that they may commence the wharf/utility improvements that are necessary to berth the vessels. The TRAs are expected to commence on or about July 14, 2017. Together, the TRAs and the leases will provide PLS and PLN with 90-day rent-free periods. So, for example, if the TRAs are issued on July 14, 2017, and the leases commence on September 1, 2017, then PLS/PLN will not be charged rent until October 14, 2017, or until a vessel is berthed, whichever occurs first.

PLS and PLN will have termination rights equivalent to and consistent with their leases with MARAD and MSC, which allow MARAD or MSC to terminate the lease with a 30-day notice. PLS and PLN have advised that in 30 years of leasing to MARAD and MSC that these termination rights were invoked only once. The Port, however, would not have the right to terminate early. Staff does not expect that PLS and PLN will terminate their leases early.

The current water depth at these berths is sufficient for the proposed lay ups. Staff does not anticipate that any maintenance dredging will be required during the 5-year lease terms; however, should berth dredging become necessary, all such dredging costs would be borne by the tenant, including testing and permit fees.

Based on recent analyses of terminal capacities and cargo growth projections, Staff does not anticipate a conflict between long-term expansion of seaport facilities and the leases described herein. As such, the leases proposed would be an incremental and consistent revenue stream.

## **BUDGET & STAFFING**

The leases with PLS and PLN will result in monthly revenue of approximately \$85,000 and annual revenue of about \$1.0 million. Approximately \$584,000 of this annual revenue was included in the FY 2017-18 Maritime Division operating revenue budget, based on Staff knowledge at the time the budget was developed.

The proposed action is not expected to have an impact on staffing.

## **MARITIME AVIATION PROJECT LABOR AGREEMENT (MAPLA)**

The Port of Oakland Maritime and Aviation Project Labor Agreement (MAPLA) applies to this tenant project to the extent the Port has issued a building permit for such work.

## **STRATEGIC PLAN**

The action described herein would help the Port achieve the following goals and objectives in the Port's Strategic Plan (<http://www.portofoakland.com/pdf/about/strategicPlan2011-2015.pdf>)

- Goal A: Objective 1: Maximize the use of existing assets
- Goal A: Objective 3: Increase revenue, job creation and small business growth
- Goal B: Objective 2: Market strategically and aggressively to attract new customers and tenants

## **LIVING WAGE**

Living wage requirements will apply to this lease agreement if the tenant employs 21 or more employees working on Port-related work.

## **ENVIRONMENTAL**

CEQA Determination: The proposed lease with PLS and PLN is categorically exempt from California Environmental Quality Act (CEQA) pursuant to the Port CEQA Guidelines, Section 15301(p), which exempts the execution of leases where the premises was previously leased to another person and involving negligible or no expansion of use beyond that previously existing.

Permits: PLS' potential substantial improvements to the fender system can be covered by the Port's existing Bay Conservation and Development Commission shoreline maintenance permit M89-75.

## **GENERAL PLAN**

This action does not change the use of any existing facility, make alterations to an existing facility, or create a new facility; therefore, a General Plan conformity determination pursuant to Section 727 of the City of Oakland Charter is not required.

## **OWNER-CONTROLLED INSURANCE PROGRAM (OCIP)**

This project is not subject to the Port's Owner Controlled Insurance Program (OCIP) as it is not a capital improvement construction project.

## **OPTIONS**

Staff has identified the following options for the Board's consideration:

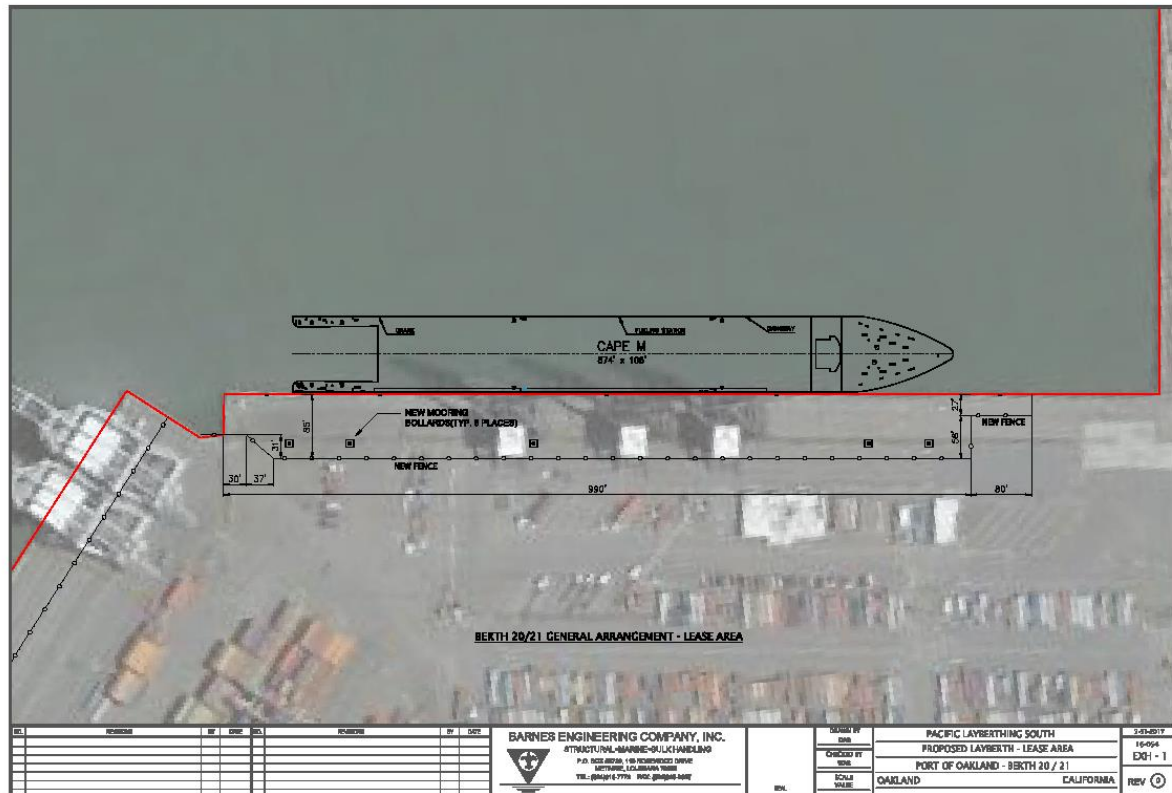
- Authorize the Executive Director to enter into leases with PLS and PLN for vessel layups as described herein. This is the recommended action.
- Authorize the Executive Director to enter into leases with PLS and PLN for vessel lay ups, with terms other than those described herein, as may be directed by the Board.
- Do not authorize the Executive Director to enter into leases with PLS and PLN for vessel lay ups.

## **RECOMMENDATION**

Staff recommends that the Board authorize the Executive Director to enter into a lease with Pacific Layberthing South, LLC, for the lay up of one vessel at Berth 20/21, and enter into a lease with Pacific Layberthing North, LLC, for the lay up of two vessels at Berth 22, with each lease being for a term of five years with no rent escalations, and each lease providing the tenant with the right to terminate on 30 day's notice.

# Exhibit A

## PLS – Berth 20/21



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