

BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND

6/22/17
Item 23
DC/ha
Dyle DW

ORDINANCE APPROVING AND AUTHORIZING A ONE-MONTH
EXTENSION TO TEMPORARY RENTAL AGREEMENT WITH AUTO
PLUS TOWING, LLC FOR 3 ACRES OF LAND LOCATED AT SWAN
WAY AND DOOLITTLE DRIVE, OAKLAND.

WHEREAS, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the Agenda Report for Agenda Item 2.3, dated June 22, 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. Auto Plus Towing, LLC ("Auto Plus") currently occupies approximately three (3) acres of land located at Swan Way and Doolittle Drive, Oakland (the "Premises"); and

B. Auto Plus uses and occupies the Premises pursuant to a Temporary Rental Agreement ("TRA") with the Port that expired on May 31, 2017, and Auto Plus currently holds a five (5) year contract with the City of Oakland to provide vehicle towing services; and

C. Auto Plus has requested a one (1) month extension to their TRA to allow them time to remove all vehicles and perform their clean up responsibilities under the TRA; and

D. Port staff recommends granting the 1-month extension requested by Auto Plus under all the same terms and conditions of the TRA, including, but not limited to, Auto Plus' obligation to pay monthly rent of \$29,141.00.

E. The Board further finds and determines that the proposed extension of the TRA is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15301, which exempts the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private

structures, facilities, mechanical equipment or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The proposed 1-month extension will not have a significant effect on the environment and therefore will not require further environmental review.

Section 3. The Board hereby authorizes the Executive Director or his designee to execute the proposed Amendment No. 1 to the TRA, as described in the Agenda Report, subject to approval as to form and legality by the Port Attorney. Furthermore, if the proposed Amendment No. 1 is not fully executed within thirty (30) days after Board approval, the approval shall be null and void unless extended at the sole and absolute discretion of the Executive Director or his designee.

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