

BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND

6/22/17

Item: 6.4

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[Signature]

ORDINANCE APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO ENTER INTO A 5-YEAR LEASE AGREEMENTS WITH PACIFIC LAYBERTHING NORTH, LLC AND PACIFIC LAYBERTHING SOUTH, LLC AT BERTHS 20 THROUGH 22 IN THE MARITIME AREA.

WHEREAS, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the Agenda Report for Agenda Item 6.4, 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. Pacific Layberthing North, LLC ("PLN") provides important vessel layup services for the United States Maritime Administration and Military Sealift Command as part of the Ready Reserve Fleet and has been laying up vessels in United States ports since 1987; and

B. Pacific Layberthing South, LLC ("PLS") also provides important vessel layup services for the United States Maritime Administration and Military Sealift Command as part of the Ready Reserve Fleet and has been laying up vessels in United States ports since 1987; and

C. For the reasons stated in this ordinance, the Agenda Report, and other information received by the Board, the Board hereby finds and determines that entering into each the proposed 5-year Lease/Space Assignment Agreements ("Agreements") with PLN and PLS is in the Port's best interest; and

D. The Board further finds and determines that the proposed 5-year Agreements with PLN and PLS for vessel layup services at Berths 20 through 22 were reviewed in accordance with the requirements of the California Environmental Quality Act ("CEQA") and the Port CEQA Guidelines. The proposed Agreements with PLN and PLS are categorically exempt from CEQA pursuant to CEQA Guidelines, Section 15301, 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.

Section 3. The Board hereby authorizes the Executive Director or his designee to:

A. Execute the proposed Agreement with PLN subject to the following material terms:

- Term: Five (5) years;
- Premises: Approximately 873 linear feet of water area at Berth 20/21, plus approximately two acres of adjacent wharf/stringer area;
- Rent: \$800/day for the term of the Agreement;
- Security Deposit: equal to 3-months' rent;
- Improvements: PLN to be responsible for the costs of any and all improvements for operations during Agreement term, including improvements to the fender system, electrical infrastructure and potable water system;
- Maintenance: PLN to be responsible for all maintenance, including any necessary maintenance dredging.

B. Execute the proposed Agreement with PLS subject to the following material terms:

- Term: Five (5) years;
- Premises: Approximately 951 linear feet of water area at Berth 22, plus approximately two acres of adjacent wharf/stringer area;
- Rent: \$1,000/day for the term of the Agreement;
- Security Deposit: equal to 3-months' rent;
- Improvements: PLS to be responsible for the costs of any and all improvements for operations during Agreement term,

including improvements to the electrical infrastructure and potable water system;

- Maintenance: PLN to be responsible for all maintenance, including any necessary maintenance dredging.

The Executive Director is further authorized to make minor amendments to the Agreements consistent with the material terms set forth in this ordinance and 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 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.

President.

Attest: _____
Secretary.

Approved as to form and legality:

Port Attorney