

AGENDA REPORT

Ordinance: Approve and Authorize the Executive Director to Amend (1) the Non-Exclusive Preferential Assignment Agreements (“NEPAAs”) with SSA Terminals (Oakland), LLC for the Oakland International Container Terminal Berths 55-59; (2) the NEPAA with SSA Terminals, LLC for the Matson Terminal Berths 60-63; and (3) the Agreement Regarding Combined Compensation at Berths 55-56 and Berths 57-59 Marine Terminals with SSA Terminals (Oakland), LLC; Resulting in Annual Fixed Rent Ranging from Approximately \$67.6 million to \$74.9 million and Annual Variable Rent Ranging from Approximately \$20.0 million to \$37.2 million for a Term Through June 2032
(Maritime)

MEETING DATE: 5/24/2018

AMOUNT:

Revenue

\$71.6 million annual fixed rent (average)

\$26.3 million annual variable rent (average)

Operating Expense

\$8.7 million (total through 6/30/25)

Non-Operating Expense

\$2.6 million (net \$1.3 million after tenant reimbursement)

PARTIES INVOLVED:

SSA Terminals (Oakland), LLC

SSA Terminals, LLC

Ed DeNike, Chief Operating Officer

SUBMITTED BY:

John C. Driscoll, Director of Maritime

APPROVED BY:

J. Christopher Lytle, Executive Director

ACTION TYPE:

Ordinance

EXECUTIVE SUMMARY

In 2016, SSA Terminals (Oakland), LLC and SSA Terminals (LLC) (collectively referred to herein as “SSAT”) approached the Port to negotiate term extensions to its leases for the Oakland International Container Terminal and Matson Terminal. The parties have been negotiating items such as length of term, compensation adjustments, treatment of properties currently under short-term leases, and the purchase of new cranes, among other matters. The parties have reached agreement on terms. In summary, the proposed lease amendments would modify the leasehold premises, extend the term of the leases through June 30, 2032, and require SSAT to purchase new cranes. Based on current assumptions, fixed and variable rent would increase over time, averaging \$71.6 million

and \$26.3 million per year, respectively. Staff is requesting the Board's authorization to execute the proposed lease amendments and related documents with SSAT.

BACKGROUND

The marine terminals comprising Berths 55-56 and Berths 57-59, and Berths 60-63 are located contiguously in the Port's Middle Harbor Area. SSA Terminals (Oakland), LLC¹ operates Berths 55-56 and Berths 57-59 for international cargo as a single terminal (the Oakland International Container Terminal, or OICT) pursuant to two separate lease agreements that both expire on June 30, 2022. SSA Terminals, LLC operates Berths 60-63 (the Matson Terminal) for domestic cargo under a lease that will also expire on June 30, 2022. SSA Terminals, LLC and SSA Terminals (Oakland), LLC are both owned by the same parent company and are collectively referred to herein as "SSAT".

In early 2016, when the Outer Harbor Terminal (OHT; Berths 20-26) closed, SSAT started handling a significantly higher volume of international cargo at OICT. In April 2016, to help SSAT accommodate this additional cargo, the Board approved a variety of temporary leasing arrangements related to OICT, the Matson Terminal, and the adjacent Roundhouse property. Through those arrangements, OICT has been using approximately 19 acres of the Matson Terminal, and the Matson Terminal has been using approximately 14 acres of the Roundhouse property since April 2016.

In mid-2016, SSAT approached the Port to negotiate various lease-related matters for OICT and Matson Terminal including, but not limited to, length of term, compensation adjustments, treatment of the properties currently under short-term leases (i.e., the 19-acre and 14-acre properties noted above), and the purchase of new cranes.

Separate from the negotiations, on March 22, 2018, the Port adopted a 6% general rate increase for Tariff No. 2-A, which became effective on May 1, 2018. The Tariff amendment results in (a) a 2% annual increase to the All-Inclusive Throughput Rates (Rates) at both OICT and Matson terminals, and (b) a 2% annual increase to approximately one-half of the fixed rent at Matson Terminal. In the absence of any modifications to the lease agreements, the annual increase would be applied each year for three years.

In late April 2018, the Port and SSAT reached agreement on the terms for lease amendments, as summarized below and further detailed on Exhibit A. The proposed amendments would be as follows:

- Eighth Supplemental Agreement to Berths 55-56 Non-Exclusive Preferential Assignment Agreement – OICT.
- Fourth Amendment to Berths 57-59 Amended and Restated Non-Exclusive Preferential Assignment Agreement – OICT.

¹ SSAT (Oakland), LLC is the subassignee of SSA Terminals, LLC for the Berths 55-59 marine terminal.

- Amended and Fully Restated Agreement Regarding Combined Compensation at Berths 55-56 and Berths 57-59 Marine Terminals – OICT.
- Second Supplement to Non-Exclusive Preferential Assignment Agreement (Berths 60-63 Marine Terminal) – Matson Terminal.

ANALYSIS

Exhibit A summarizes the terms agreed upon by the parties. Highlights include:

- The effective date of each of the lease amendments would be July 1, 2018.
- The 19-acre area currently assigned to OICT by Matson would be removed from the Matson Terminal and incorporated into the OICT lease, which would expand the OICT to approximately 290 acres. The 14-acre area at the Roundhouse currently used by Matson will be incorporated into the Matson Terminal lease, which would shrink the Matson Terminal to about 75 acres.²
- The OICT and Matson Terminal leases would be extended through June 2027, then automatically further extended through June 2032, if the Port removes the tax-exempt debt restrictions currently encumbering the property. There is a single 10-year option in 2032, to extend each lease through June 30, 2042, subject to mutual agreement and future approval of the Board.
- At OICT, the Port would waive its right to a January 2017 Fair Market Value adjustment. OICT rent would escalate 7% in 2022 and 8% in 2027. Matson rent would increase in the same years based on a combination of valuation factors, including without limitation the Consumer Price Index.
- The rate increase that became effective on May 1, 2018 by amendment to Port Tariff 2-A, which resulted in a an approximate 2% increase to compensation at both terminals, would be “nullified” and compensation would return to pre-May 2018 levels as of the Effective Date of the amendments. This 2% increase is worth approximately \$1.5 million on an annualized basis, holding all other variables constant.
- At both OICT and Matson Terminal, SSAT would take over the performance and payment of all pavement maintenance during the extended term, but the Port would reimburse SSAT up to a combined total of \$8.7 million through June 2025 for certain deferred maintenance.

² The Roundhouse property is approximately 39.5 acres, of which 6 acres are currently leased by another tenant. After inclusion of 14 acres into the Matson Terminal for SSAT, about 19.5 acres will remain available for leasing.

- SSAT's pay-back schedule for raising four Port-owned cranes at OICT would be extended from 2022 through 2027, with no interest. Interest foregone is approximately \$2.8 million (about \$700,000 per crane).
- SSAT would be obligated to buy and put into service three new gantry cranes at OICT by December 31, 2020. The Port and SSAT will share the cost (50%-50%) of removing any Port-owned cranes if necessitated by the crane purchase.
- For every excess Port-owned crane that is removed from the OICT premises, SSAT's Rates would decrease, based on a valuation factor set forth in the current lease for OICT.
- SSAT has a right of first negotiation for the Berths 20-24 terminal for the 4-year period (2019-2023) following the expiration of another tenant's first right of negotiation. The key terms of SSAT's first right of negotiation are consistent with those of the other tenant.
- SSAT is required to undertake certain environmental initiatives to promote, in particular but not limited to, improvements to air quality at OICT and Matson Terminal. Exhibit B to this Report presents the air quality section of the Environmental Exhibit to the leases. Also, staff notes that SSAT has applied for a \$5 million grant from the Bay Area Air Quality Management District (BAAQMD) to retrofit 13 rubber tired gantry cranes at OICT with hybrid electric technology, which would result in significant emissions reductions. Staff believes the likelihood of SSAT being awarded the grant is high; however, the BAAQMD is not expected to vote on the award until late May 2018.

The key economic benefits to the Port of these terms negotiated to date are:

- Port locks in a minimum of five additional years (through June 2027) at OICT and Matson Terminal, including an additional 14 acres of land at the Roundhouse. This "lock" will increase to 10 years (through June 2032) after the Port addresses debt constraints (see Budget section below). Therefore, while not guaranteed, the working assumption is that the properties would be secured under long-term leases through 2032 at competitive rates.
- Port locks in rent increases in 2022 and 2027, providing revenue certainty to the Port.
- Port increases the share of revenue from fixed rent immediately upon date of execution, because acreage at OICT increases; however, for the same reason, variable rent decreases assuming no material changes in cargo activity from current.
- SSAT is both required and encouraged to invest in new cranes.
- Port will pay only half of the crane removal costs, if needed, when SSAT places into service new cranes at OICT.
- Port transfers responsibility to pay and perform pavement maintenance immediately, which (aside from the Port's reimbursement for certain deferred maintenance) is worth at least an estimated \$1.5 million per year.

BUDGET & STAFFING

Revenue

The OICT and Matson Terminal leases have a calendar contract year; therefore, the financials presented below are on a calendar year basis unless noted otherwise.

The proposed lease amendments result in annual fixed rent ranging from approximately \$67.6 million in 2018 to \$74.9 million in 2032. The overall trend of fixed rent is upward; however, fixed rent in CY 2021 is anticipated to dip about \$2.9 million from CY 2020 because of the Rate reduction associated with the potential removal of three Port-owned cranes at OICT. Fixed rent for Matson Terminal is partly dependent on fair market value adjustments in 2022 and 2027, which have yet to be determined; therefore, the rent shown in the table below for Matson Terminal is subject to change.

Variable rent is expected to dip initially (since the share of revenue from fixed rent increases) and will vary with cargo activity; over time, it is expected to grow as shown in the table below. The variable rent shown below assumes cargo activity growth of about 1%-2% per year, certain cargo shifts in the near term only, and a Rate reduction associated with the potential removal of Port-owned cranes. Variable rent shown here is based on assumptions and data currently available to staff; actual variable rent may vary.

The table below summarizes annualized rent for (a) current calendar year 2018, (b) calendar year 2019, the first full year of amended terms, (c) calendar year 2021, the first full year of rent reduction associated with the assumed removal of three Port-owned cranes from OICT, and (d) calendar year 2027, when the initial term would expire, and (d) calendar year 2032, when the second term would expire.

	CY 2018	CY 2019	CY 2021	CY 2027	CY 2032	CAGR (14 YR)
	\$ millions					
OICT						
Fixed Rent	54.7	56.4	53.2	63.0	63.0	1%
Variable Rent	20.0	18.6	19.5	30.1	37.2	5%
Crane Raising Surcharge	0.4	1.3	1.6	0.8	0.0	NA
Total Rent	75.1	76.3	74.4	94.0	100.2	2%
Matson Terminal						
Fixed Rent	10.9	10.5	10.5	11.9	11.9	1%
Variable Rent	0.0	0.0	0.0	0.0	0.0	NA
Total Rent	10.9	10.5	10.5	11.9	11.9	1%
Roundhouse						
Fixed Rent	1.6	0.0	0.0	0.0	0.0	NA
Grand Total Rent	87.7	86.8	84.9	105.8	112.1	2%

- All numbers are annualized for comparative purposes, though 2027 and 2032 would be partial years if the leases were not extended.
- Roundhouse refers only to the 14 acres of the Roundhouse proposed for incorporation into the Matson Terminal.

Expense

The Port has different maintenance obligations under the leases. Two of the most major obligations, however, are common to the leases: (1) maintenance of Port-owned Cranes and (2) maintenance of other improvements on the leasehold premises, notably pavement.

The proposed lease amendments do not transfer to SSAT any crane maintenance obligations for Port-owned cranes, with the exception of a very limited transfer during the 1-year period during which the Port must coordinate the removal of any Port-owned cranes from the OICT if requested by SSAT.

The proposed lease amendments do transfer the responsibility to SSAT to perform and pay for pavement maintenance. This transfer results in a long-term savings of about \$1.5 million per year. However, the Port would be required to reimburse SSAT up to \$8.7 million through June 2025, for certain deferred pavement maintenance. If SSAT does not perform the work eligible for reimbursement, the Port is not required to reimburse SSAT or step in to perform the work.

Non-Operating Expense

The proposed amendments may require the removal of up to three Port-owned cranes following SSAT's purchase of new cranes. The Port and SSAT have agreed to share equally the removal cost, estimated at up to \$850,000 per crane. SSAT would reimburse the Port up to \$425,000 per crane. Therefore, the proposed amendments could result in a non-operating expense of up to \$2.6 million (of which SSAT would reimburse up to \$1.3 million). Staff currently anticipates this expense, if any, to occur in calendar year 2021.

Proposed vs. Current

The current leases expire on June 30, 2022, with no options to extend. Although staff's expectation is that the OICT and Matson Terminal would continue to operate beyond this date, the terms of any such continued operation would be subject to negotiation with SSAT or another party. Projecting revenue from new leases requires many assumptions, which limit the usefulness of such a projection for comparative purposes.

However, it is meaningful to compare the current and proposed lease terms for the period 2018 through June 2022, since the current leases expire in on June 30, 2022. In this time frame, the proposed lease terms differ from the current lease terms in two major ways. They (1) provide for a rent reduction due to a "roll back" of the May 1, 2018 Tariff amendment, which affects both terminals, and (2) provide for a Rate reduction due to the potential removal of up to three Port-owned cranes, which affects only OICT. The table below summarizes the value of the current vs. proposed lease terms from January 1, 2018 through June 30, 2022.

		OICT	Matson
		CY 2018 - CY 2022 (June)	
Current Lease			
NPV (fixed rent)	\$ millions	235.7	45.5
NPV (total rent)	\$ millions	325.8	45.5
Average \$/acre/year (fixed rent)	\$	221,147	144,474
Average \$/acre/year (total rent)	\$	291,084	144,474
Proposed Amendment			
NPV (fixed rent)	\$ millions	225.1	42.0
NPV (total rent)	\$ millions	302.2	42.0
Average \$/acre/year (fixed rent)	\$	196,956	142,972
Average \$/acre/year (total rent)	\$	264,474	142,972
Proposed vs Current Lease			
NPV (fixed rent)	\$ millions	(10.6)	(3.5)
NPV (total rent)	\$ millions	(23.6)	(3.5)
Average \$/acre/year (fixed rent)	\$	(24,191)	(1,502)
Average \$/acre/year (total rent)	\$	(26,610)	(1,502)

- Fixed Rent for OICT includes Roundhouse property, Crane Raising Surcharge, and crane removal cost.
- This analysis excludes the \$1.75m/yr deferred pavement maintenance the Port would pay SSAT, because the Port would be responsible to pay for this under both current and proposed.

Debt

The Port used bonds to finance cranes purchases and installations. These bonds are scheduled to be fully paid off in 2033. The Port will continue paying annual debt service on any cranes that will be removed from the OICT until the maturity of the bonds.

Each lease that the Port enters into must be evaluated to ensure that it is consistent with the tax requirements of the Port's outstanding tax-exempt bonds and to determine whether remedial actions, such as a defeasance of bonds, are necessary. The proposed extension of the Matson Terminal lease to 2027 will trigger a defeasance of \$645,000 of tax-exempt senior lien bonds, which will be completed within 90 days of the Effective Date. To defease the bonds, Port staff will use approximately \$703,000 in Port cash to either (i) "buy-back" the required bonds, or (ii) deposit into an irrevocable escrow to pay the principal and interest of the required bonds. After the defeasance, the Port will no longer have any debt service payments on these bonds.

On a present value basis, including transaction costs, there is de minimis cost associated with this defeasance transaction; it has not been included in the financial analysis presented above.

The extension of the leases from June 2027 through June 2032 depends on the Port's ability to remove certain encumbrances associated with tax-exempt debt previously issued and used to improve the subject properties. While the Port is not required to address these encumbrances, it is highly desirable that the leases be extended through June 2032 for the reasons discussed herein. There are different methods by which the Port could resolve this issue; staff has not yet determined the method or timing for removal of debt-related encumbrances. Further, depending on the approach, the Port may incur costs that are not discussed in this report. Staff will keep the Board apprised of this matter as more information becomes available.

The proposed lease amendments will have no impact on staffing.

MARITIME AVIATION PROJECT LABOR AGREEMENT (MAPLA)

The action to enter into various lease amendments and lease-related agreements does not fall within the scope of the Port of Oakland Maritime and Aviation Project Labor Agreement (MAPLA) and the provisions of the MAPLA do not apply to this action. However, if in the future, tenant construction work under these lease amendments and lease-related agreements exceeds the thresholds required for coverage under the MAPLA, the provisions of MAPLA will apply to that work.

STRATEGIC PLAN

The action described herein would help the Port achieve the following goals and objectives in the Port's Strategic Business Plan (2018-2022).

<https://www.portofoakland.com/wp-content/uploads/Port-of-Oakland-Strategic-Plan.pdf>

- Goal: Grow Net Revenue
- Goal: Modernize and Maintain Infrastructure
- Goal: Care for Our Environment

LIVING WAGE

Living wage requirements, in accordance with the Port's Rules and Regulations for the Implementation and Enforcement of the Port of Oakland Living Wage Requirements (the "Living Wage Regulations"), apply to this agreement as the tenant employs 21 or more employees working on Port-related work and the tenancy agreement is greater than \$50,000. In addition, for future construction and maintenance services under this contract, construction prevailing wage requirements will apply.

SUSTAINABILITY

The tenant has not proposed any development. If the tenant decides to develop the site in the future, the tenant must comply with the 2000 Sustainability Policy and complete the Sustainability Opportunities Assessment Form.

ENVIRONMENTAL

This action was reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA) and the Port's CEQA Guidelines. Per Section 15301(p) of the Port's CEQA Guidelines, the Port has determined that renewals, extensions or amendments to leases or to license and concession agreements, or the execution of leases or license and concession agreements, where the premises or licensed activity was previously leased or licensed to the same or another person and involving negligible or no expansion of use beyond that previously existing, are categorically exempt from CEQA. Therefore, this action is not subject to CEQA and no environmental review is required.

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)

The Owner Controlled Insurance Program (OCIP) does not apply to the matters addressed by this report, as they are not capital improvement construction projects.

OPTIONS

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

1. Approve the proposed lease amendments and related agreements for OICT and Matson Terminal, as outlined in this report.
2. Approve the proposed lease amendments and related agreements for OICT and Matson Terminal, as outlined in this report, except that the Rates as of the Effective Date would not roll back to pre-May 2018 levels. This would result in about \$1.6 million of additional rent annually.
3. Approve the proposed lease amendments and related agreements for OICT and Matson Terminal, with other modifications than those outlined in (2) above, as may be directed by the Board.

4. Do not approve any lease amendments for the OICT and Matson Terminal at this time. Under this option, the leases will expire on June 30, 2022, in the absence of any future negotiations to extend the lease.

RECOMMENDATION

Approve and authorize the Executive Director to execute the proposed amendments to the Non-Exclusive Preferential Assignment Agreements for Berths 55-56, 57-59, and 60-63; and execute the proposed amendments to the Amended and Fully Restated Agreement Regarding Combined Compensation at Berths 55-56 and Berths 57-59 Marine Terminals, with SSA Terminals (Oakland), LLC and SSA Terminals, LLC, which would modify the leasehold premises of the Oakland International Container Terminal and Matson Terminal, extend the term of the agreements to June 30, 2032, and set forth other terms, all as detailed in this Agenda Report.

Exhibit A

Summary of Proposed Key Terms

Oakland International Container Terminal Berths 55-59

	Description
Effective Date of Amendment	<ul style="list-style-type: none"> 7/1/2018
Lease Term & Options to Extend	<ul style="list-style-type: none"> Extension from 6/30/22 through 6/30/27 upon execution of amendment. Automatic 5-year extension thru 6/30/32 if/when Port resolves debt-related matters. Then, one 10-yr option to extend thru 6/30/42 if parties reach mutual agreement on compensation and related terms. To exercise option, SSAT must notify the Port no less than 18 months in advance of 6/30/32. Negotiations must be completed (terms agreed upon) by 12/31/31 (i.e., 6 months prior to expiration) or option to extend becomes null and void.
Rent Escalations	<ul style="list-style-type: none"> Port to waive 1/1/17 FMV. 7% increase to All-Inclusive Throughput Rate and the Overage All-Inclusive Throughput Rate on 1/1/22. 8% increase to All-Inclusive Throughput Rate and the Overage All-Inclusive Throughput Rate on 1/1/27. Breakpoint (BP) for variable rent increases to 696,663 full TEUs because of acreage change.
Maintenance	<ul style="list-style-type: none"> SSAT takes over payment and performance of all pavement/paver/runway maintenance effective 7/1/18. However, Port provides SSAT with \$8m maximum reimbursement for certain pavement work. Reimbursement is “use it or lose it,” capped at \$1.5m/year AND \$8m over 8 years. No reimbursement after 6/30/25. Reimbursement based on receipt of invoices/documentation of costs incurred by SSAT and will be made within 90 days of Port’s receipt of a complete invoice with supporting documentation. Port has step-in rights to complete the work at SSAT’s cost if the pavement work is not completed by SSAT by 6/30/25.

Crane Raising	<ul style="list-style-type: none"> • Terms of Third Amendment are in effect for SSAT to raise 4 Port-owned cranes, but further clarified as follows: <ul style="list-style-type: none"> ○ Any balance on crane payback will be re-amortized through 6/30/27. ○ SSAT pays 0% interest to Port. ○ SSAT can pre-pay w/o penalty at any time.
Crane Purchase	<ul style="list-style-type: none"> • SSA commits to buying and placing 3 new cranes into service at OICT by 12/31/2020, at its sole cost. • SSAT to pay for and perform all maintenance on cranes it purchases ("New SSAT Cranes"). • Port has right of first offer if SSAT intends to remove New SSAT Cranes from premises, which SSAT is not obligated to accept. If Port does not purchase any New SSAT Cranes, then SSAT must remove New SSAT Cranes from premises at its sole cost unless parties agree otherwise. • If any New SSAT Crane is removed as a result of lease termination (as opposed to during term of the lease), then SSAT will remove New SSAT Crane no later than 90 days after lease termination date. • Prior to purchase of New SSAT Cranes, SSAT shall notify the Port whether or SSAT wants to designate a Port-owned crane(s) as excess (Excess Port Crane(s)). SSAT may designate up to 3 Excess Port Cranes when SSAT places the order for New SSAT Cranes: <ul style="list-style-type: none"> ○ Port must relocate and/or demolish a Port Excess Crane(s) from the premises by 12/31/2021. ○ SSAT shall reimburse Port the 50% of the Port's costs to relocate/demolish the Excess Port Crane(s), up to \$425k/crane; SSAT can pay its share over time at an interest rate of 5%. ○ When the New SSAT Cranes are fully operational and placed into routine service: <ul style="list-style-type: none"> ▪ Port to reduce All-Inclusive Throughput Rates by 1.1% for each crane (up to 3) designated as an Excess Port Crane(s) by SSAT. ▪ Until Excess Port Crane(s) is removed, SSAT has the right to use an Excess Port Crane(s) at no cost to SSAT, if SSAT performs and pays for all maintenance on such cranes.
Temporary Assignment of "Auto Lot" from Matson Terminal to OICT B57-59	<ul style="list-style-type: none"> • Acreage to be incorporated into OICT lease with BP/ MAG adjusted to reflect the expanded area as of the Effective Date, through the lease term with no reversion rights. • Acreage of this auto lot is approx. 19 acres.

Use of Matson Terminal for “Overflow” Vessels	<ul style="list-style-type: none"> Any cargo on a non-Matson vessel (vessel not operated, owned, or leased by Matson) that is served at Matson terminal shall be counted toward OICT.
Berths 20-24	<ul style="list-style-type: none"> SSAT has right of first negotiation from 7/1/19 through 6/30/23 (4 years after another tenant’s right of first negotiation expires).
Truck RFID Data	<ul style="list-style-type: none"> SSA to provide Port with in-gate and out-gate RFID data for all gate complexes through term of lease.
Bunkering	<ul style="list-style-type: none"> Bunkering revenues are exempt from the 50% sharing provisions of secondary use.
Handback	<ul style="list-style-type: none"> Addition of “handback” provision to require Port and SSAT to perform a joint inspection no less than one year prior to end of lease term, or termination of lease, to determine condition of the premises and deferred maintenance. Any repairs and/or deferred maintenance identified, which is the responsibility of SSAT, must be completed 90 days prior to the end of the lease term or date of termination.
Lease Guarantee	<ul style="list-style-type: none"> SSAT to provide Port with an Irrevocable Letter of Credit (the “LOC”) in the amount of 5 months’ rent. LOC shall be adjusted to reflect any increases to rent.
Air Quality	<ul style="list-style-type: none"> The “Environmental Responsibilities” Exhibit has been updated to include updated Air Quality requirements for OICT. The new provisions require OICT to comply with current and future Federal and State laws. OICT shall also adhere to current and future Port requirements including the Maritime Air Quality Improvement Plan (MAQIP). Lastly, OICT is committed to use best efforts to apply for grants to reduce emissions from yard equipment, work with the Port to test new technologies to enhance efficiency and emission reduction, and continue to work closely with the Port to inventory emissions from existing equipment and develop strategies for low to zero emission implementation.

Matson Terminal Berths 60-63

	Description
Effective Date of Amendment	<ul style="list-style-type: none"> 7/1/2018
Lease Term & Options to Extend	<ul style="list-style-type: none"> Extension from 6/30/22 through 6/30/27 upon execution of amendment. Automatic 5-year extension thru 6/30/32 if/when Port resolves debt-related matters. Then, one 10-yr option to extend thru 6/30/42 if parties reach mutual agreement on compensation and related terms. To exercise option, SSAT must notify the Port no less than 18 months in advance of 6/30/32. Negotiations must be completed (terms agreed upon) by 12/31/31 or option to extend becomes null and void.
Rent Escalations	<ul style="list-style-type: none"> "Land value" increases every 5 years starting; starting with 1/1/22 FMV adjustment, new methodology is in effect. "Improvement value" increases 7% on 1/1/22 and 8% on 1/1/27, consistent with OICT increases. Breakpoint (BP) for variable rent increases to 203,463 full TEUs because of acreage change. All-Inclusive Throughput Rate of \$48.69 increases 7% on 1/1/22 and 8% on 1/1/27 for cargo above the BP.
Roundhouse Space Assignment	<ul style="list-style-type: none"> Approximately 13 acres of the Roundhouse property to be incorporated into terminal. BP/MAG adjusted to reflect the reduced acreage effective 7/1/18, through the effective lease term with no reversion rights. Net terminal acreage change is approximately 5 acres.
Removal of "Auto Lot" from Matson Terminal Premises	<ul style="list-style-type: none"> Acreage of subject area is 19 acres. See above for OICT; auto lot removed from Berth 60-63 and incorporated into OICT leasehold.
Use of Matson Terminal for "Overflow" Vessels	<ul style="list-style-type: none"> Any cargo on a non-Matson vessel (vessel not operated, owned, or leased by Matson) that is served at Matson terminal shall be counted toward OICT.

Maintenance	<ul style="list-style-type: none"> • SSAT takes over payment and performance of pavement/paver/runway maintenance effective 1/1/18. • However, Port provides SSAT with \$650k maximum reimbursement for certain pavement repairs. Reimbursement is “use it or lose it,” capped at \$200k/year and up to \$650k over 8 years. No reimbursement after 6/30/25. • Port has step in rights and will complete the work at SSAT’s cost if the pavement repairs are not completed by 6/30/25.
Truck RFID Data	<ul style="list-style-type: none"> • SSA to provide Port with in-gate and out-gate RFID data for all gate complexes through term of lease.
Bunkering	<ul style="list-style-type: none"> • Bunkering revenues are exempt from the 50% sharing provisions of secondary use.
Handback	<ul style="list-style-type: none"> • Addition of “handback” provision to require Port and SSAT to perform a joint inspection no less than 1 year prior to end of lease term, or termination of lease, to determine condition of the premises and deferred maintenance. • Any repairs and/or deferred maintenance identified, which is the responsibility of SSAT, must be completed 90 days prior to the end of the lease term or date of termination.
Lease Guarantee	<ul style="list-style-type: none"> • SSAT to provide Port with an Irrevocable Letter of Credit (the “LOC”) in the amount of 5 months’ rent. The LOC shall be adjusted to reflect any increases to rent.
Air Quality	<ul style="list-style-type: none"> • The “Environmental Responsibilities” Exhibit has been updated to include updated Air Quality requirements for Matson Terminal. The new provisions require Matson Terminal to comply with current and future Federal and State laws. Matson Terminal shall also adhere to current and future Port requirements including the Maritime Air Quality Improvement Plan (MAQIP). Lastly, Matson Terminal is committed to use best efforts to apply for grants to reduce emissions from yard equipment, work with the Port to test new technologies to enhance efficiency and emission reduction, and continue to work closely with the Port to inventory emissions from existing equipment and develop strategies for low to no emission implementation.

Exhibit B

Air Quality Sections of Environmental Exhibit to Proposed Lease Amendments

Oakland International Container Terminal Berths 55-59

(a) Air Quality Policy, Maritime Air Quality Improvement Plan (“MAQIP”), and Comprehensive Truck Management Plan (“CTMP”).

By its Resolution No. 08057, the Board adopted its Air Quality Policy and by Resolution No. 09038, the Board approved the MAQIP that guides the Port’s plans and actions with respect to air quality improvements and reduction of health risks. One of the programs described in the MAQIP is the CTMP, which the Board adopted on June 16, 2009, by Resolution No. 09082. The full text of the Air Quality Policy, as stated in Resolution No. 08057, is as follows:

The Board of Port Commissioners affirms that it has the social responsibility to minimize exposure of neighboring residents to air pollution from Port sources and to support and^[1] rights of community, local businesses and workers to clean air and fair working conditions. Therefore, the Board is committed to improving air quality, safety and quality of life for neighboring residents and workers by reducing environmental impacts of Port operations, while fulfilling the Port’s basic obligations to maximize commerce and to provide economic and job opportunities. To these ends, the Board hereby adopts the following policy principles that shall guide the Port’s plans and actions, including the adoption of the Port’s Maritime Air Quality Improvement Plan (“MAQIP”), Comprehensive Truck Management Plan (CTMP) and Early Actions (as defined below).

1. The Port adopts the goal of reducing the health risks to our neighboring communities (expressed as increase in cancer risk) related to exposure of people to diesel particulate matter emissions from Port sources by 85% by the year 2020 through all practicable and feasible means. Reduction will be calculated based on the Port’s 2005 Seaport Emissions Inventory baseline.
2. The Board commits to adopting funding mechanisms, including imposition of fees, to fund air emissions reduction measures. To the maximum extent possible, Port fee revenues shall leverage matching federal, state and private funds. Fees for the purpose of funding the measures shall be evaluated for legality and be enacted to the extent that they do not damage the Port’s or its customers’ market competitiveness.
3. The Port will implement certain air emissions reduction measures prior to the dates that such measures are required by state or federal regulations,

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in order to reduce the duration of people's exposure to emissions that may cause health risks ("Early Actions"). The Port shall implement, beginning in 2008, Early Action measures for the purpose of immediately reducing the impacts of Port-serving trucks and other Port operations on West Oakland and surrounding communities. These measures shall include (a) incentives for Early Action replacement or retrofit of older polluting truck engines, (b) mechanisms for enforcing the prohibitive of Port truck parking or operation on neighborhood streets, including truck registration and tracking and (c) feasible and cost-effective means of reducing ship idling emissions. In order to fund these Early Action measures, the Board will adopt truck or containers fees and apply for matching state and federal funds.

(b) MAQIP 2020 and Beyond Plan.

Tenant acknowledges that the Port is in the process of updating the MAQIP as further described in the Board Agenda Report dated December 14, 2017, entitled "Maritime Air Quality Improvement Plan ('MAQIP') Status Report" which update is expected to be approved by the Board ("MAQIP 2020 and Beyond Plan").

(c) Compliance with Laws.

Tenant shall comply with, and shall require Tenant Representatives, to comply with, at their sole cost and expense, all applicable Environmental Laws, which said Environmental Laws (as defined in the Environmental Ordinance) specifically include the MAQIP and the MAQIP 2020 and Beyond Plan (once adopted by the Board). To the extent that Tenant has a written contract with Tenant Representatives or other Third Parties regarding Tenant Operations, Tenant shall require in such contract that the Representatives or other Third Parties comply with all applicable Environmental Laws regarding air quality and shall notify the Port if Tenant becomes aware of non-compliance with such requirements by Tenant Representatives and shall use best efforts to enforce the requirements. Notwithstanding anything contained herein to the contrary, if an existing Environmental Law (including specifically the MAQIP) or an Environmental Law adopted after the effective date of this Agreement (including specifically the MAQIP 2020 and Beyond Plan once adopted by the Board) contain more stringent air quality requirements than are set forth in this Exhibit, Tenant shall comply with the more stringent requirements in said existing or future Environmental Laws.

(d) Compliance with Port Air Quality Requirements.

To the extent that Tenant operates locomotives, vehicles, vessels, off-road diesel-fuel equipment, cargo handling equipment, or drayage trucks ("Emission Sources"), Tenant shall comply with requirements adopted by the Board (including any maritime tariff requirements) related to these Emission Sources, including any requirement under the MAQIP, MAQIP 2020 and Beyond Plan (once adopted by the Board), and CTMP.

(e) Air Emissions Monitoring and Facilities.

The Port reserves the right to, at any time: 1) install and operate air emissions monitoring equipment on the Premises; 2) sample and analyze air emissions; and 3) install feasible and practicable air emissions filter facilities or other devices or technologies. The Port shall fully fund and operate any monitoring equipment it chooses to install on the Premises.

(f) Annual Equipment Inventory and Use.

On December 31 of each calendar year during the Term of the Agreement (except for month to- month agreements) starting with December 31, 2018, Tenant shall provide the Port with a written inventory of all equipment used by Tenant on the Premises including, without limitation, cargo-handling equipment, switcher engines, and locomotive engines ("Equipment Inventory"). Tenant shall include in the Equipment Inventory information related to equipment used by Third Parties on the Premises to the extent Tenant has or can practically obtain the information. The Equipment Inventory shall include the estimated hours of use, truck gate counts, lift counts, and fuel usage associated with the equipment.

(g) Annual Meeting Regarding Equipment Inventory and Near Zero and Zero-Emissions Equipment.

Within thirty (30) days of receipt of each of the annual Equipment Inventories (if one is provided pursuant to Section 3(f) above) by the Port, the Port and the Tenant shall meet in good faith to discuss the Equipment Inventory, and evaluate the feasibility and cost-effectiveness of Tenant using near zero and zero-emissions equipment on the Premises.

(h) Least Polluting Emission Sources.

Tenant shall use commercially reasonable efforts to use the least polluting Emission Sources on the Premises, taking into consideration the feasibility and cost-effectiveness of using the least polluting Emission Sources. Upon the Port's request, Tenant shall negotiate in good faith with the Port during the Term to implement new air quality control measures when new technologies or other opportunities arise.

In addition, Tenant shall use commercially reasonable efforts to implement procedures and practices to relieve congestion associated with activities on the Premises, including, but not limited to, extended gate hours, appointment system for gate transactions, and virtual container yards.

(i) Application for Air Quality-Related Grants.

Tenant shall use best efforts to apply for and obtain air quality-related grants to secure funding to: 1) obtain zero-emission Emission Sources for use on the Premises; and 2) construct infrastructure on the Premises to support zero-emission Emission Sources. Port staff shall assist the Tenant with air quality-related grant applications concerning the Premises, as reasonably requested by the Tenant.

In addition, if awarded grant funding from the Bay Area Air Quality Management District to convert rubber tire gantry cranes (“RTGs”) on the Combined Premises to hybrid or zero-emission equipment, Tenant shall comply with the terms of any resulting grant funding agreements and provide the Port with written reports describing Tenant’s efforts and progress toward converting the RTGs.

(j) Shore-Power.

Tenant shall fully comply with the California Air Resources Board’s “Airborne Toxic Control Measure for Auxiliary Diesel Engines Operated on Ocean-Going Vessels At-Berth in California” regulation, commonly referred to as the At-Berth Regulation. In addition, Tenant shall cooperate with the Port and shall use commercially reasonable efforts to plug in 100% of the shore-power ready vessels to the extent practicable (e.g., to the extent the ship positioning allows it).

(k) Pilot Projects.

Tenant shall use commercially reasonable efforts to participate in pilot projects of new zero-emission marine terminal technologies upon the request of the Port, subject to feasibility.

Matson Terminal Berths 60-63

(a) Air Quality Policy, Maritime Air Quality Improvement Plan (“MAQIP”), and Comprehensive Truck Management Plan (“CTMP”).

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guide the Port's plans and actions, including the adoption of the Port's Maritime Air Quality Improvement Plan ("MAQIP"), Comprehensive Truck Management Plan (CTMP) and Early Actions (as defined below).

1. The Port adopts the goal of reducing the health risks to our neighboring communities (expressed as increase in cancer risk) related to exposure of people to diesel particulate matter emissions from Port sources by 85% by the year 2020 through all practicable and feasible means. Reduction will be calculated based on the Port's 2005 Seaport Emissions Inventory baseline.
2. The Board commits to adopting funding mechanisms, including imposition of fees, to fund air emissions reduction measures. To the maximum extent possible, Port fee revenues shall leverage matching federal, state and private funds. Fees for the purpose of funding the measures shall be evaluated for legality and be enacted to the extent that they do not damage the Port's or its customers' market competitiveness.
3. The Port will implement certain air emissions reduction measures prior to the dates that such measures are required by state or federal regulations, in order to reduce the duration of people's exposure to emissions that may cause health risks ("Early Actions"). The Port shall implement, beginning in 2008, Early Action measures for the purpose of immediately reducing the impacts of Port-serving trucks and other Port operations on West Oakland and surrounding communities. These measures shall include (a) incentives for Early Action replacement or retrofit of older polluting truck engines, (b) mechanisms for enforcing the prohibitive of Port truck parking or operation on neighborhood streets, including truck registration and tracking and (c) feasible and cost-effective means of reducing ship idling emissions. In order to fund these Early Action measures, the Board will adopt truck or containers fees and apply for matching state and federal funds.

(b) MAQIP 2020 and Beyond Plan.

Tenant acknowledges that the Port is in the process of updating the MAQIP as further described in the Board Agenda Report dated December 14, 2017, entitled "Maritime Air Quality Improvement Plan ('MAQIP') Status Report" which update is expected to be approved by the Board ("MAQIP 2020 and Beyond Plan").

(c) Compliance with Laws.

Tenant shall comply with, and shall require Tenant Representatives, to comply with, at their sole cost and expense, all applicable Environmental Laws, which said Environmental Laws (as defined in the Environmental Ordinance) specifically include the MAQIP and the MAQIP 2020 and Beyond Plan (once adopted by the Board). To the extent that Tenant has a written contract with Tenant Representatives or other Third Parties regarding Tenant Operations, Tenant shall require in such contract that the Representatives or other Third Parties comply with all applicable Environmental Laws regarding air quality and shall notify the Port if Tenant becomes aware of non-compliance

with such requirements by Tenant Representatives and shall use best efforts to enforce the requirements. Notwithstanding anything contained herein to the contrary, if an existing Environmental Law (including specifically the MAQIP) or an Environmental Law adopted after the effective date of this Agreement (including specifically the MAQIP 2020 and Beyond Plan once adopted by the Board) contain more stringent air quality requirements than are set forth in this Exhibit, Tenant shall comply with the more stringent requirements in said existing or future Environmental Laws.

(d) Compliance with Port Air Quality Requirements.

To the extent that Tenant operates locomotives, vehicles, vessels, off-road diesel-fuel equipment, cargo handling equipment, or drayage trucks ("Emission Sources"), Tenant shall comply with requirements adopted by the Board (including any maritime tariff requirements) related to these Emission Sources, including any requirement under the MAQIP, MAQIP 2020 and Beyond Plan (once adopted by the Board), and CTMP.

(e) Air Emissions Monitoring and Facilities.

The Port reserves the right to, at any time: 1) install and operate air emissions monitoring equipment on the Premises; 2) sample and analyze air emissions; and 3) install feasible and practicable air emissions filter facilities or other devices or technologies. The Port shall fully fund and operate any monitoring equipment it chooses to install on the Premises.

(f) Annual Equipment Inventory and Use.

On December 31 of each calendar year during the Term of the Agreement (except for month to- month agreements) starting with December 31, 2018, Tenant shall provide the Port with a written inventory of all equipment used by Tenant on the Premises including, without limitation, cargo-handling equipment, switcher engines, and locomotive engines ("Equipment Inventory"). Tenant shall include in the Equipment Inventory information related to equipment used by Third Parties on the Premises to the extent Tenant has or can practically obtain the information. The Equipment Inventory shall include the estimated hours of use, truck gate counts, lift counts, and fuel usage associated with the equipment.

(g) Annual Meeting Regarding Equipment Inventory and Near Zero and Zero-Emissions Equipment.

Within thirty (30) days of receipt of each of the annual Equipment Inventories (if one is provided pursuant to Section 3(f) above) by the Port, the Port and the Tenant shall meet in good faith to discuss the Equipment Inventory, and evaluate the feasibility and cost-effectiveness of Tenant using near zero and zero-emissions equipment on the Premises.

(h) Least Polluting Emission Sources.

Tenant shall use commercially reasonable efforts to use the least polluting Emission Sources on the Premises, taking into consideration the feasibility and cost-

effectiveness of using the least polluting Emission Sources. Upon the Port's request, Tenant shall negotiate in good faith with the Port during the Term to implement new air quality control measures when new technologies or other opportunities arise.

In addition, Tenant shall use commercially reasonable efforts to implement procedures and practices to relieve congestion associated with activities on the Premises, including, but not limited to, extended gate hours, appointment system for gate transactions, and virtual container yards.

(i) Application for Air Quality-Related Grants.

Tenant shall use best efforts to apply for and obtain air quality-related grants to secure funding to: 1) obtain zero-emission Emission Sources for use on the Premises; and 2) construct infrastructure on the Premises to support zero-emission Emission Sources. Port staff shall assist the Tenant with air quality-related grant applications concerning the Premises, as reasonably requested by the Tenant.

If the Port secures grant funding to convert Tenant's yard cargo handling equipment fleet to electrically-powered equipment, then the Tenant and the Port shall enter into a subgrant agreement setting forth, among other matters: a) Tenant's obligations to: i) undertake the work required by the grant agreement; ii) comply with the terms of the grant agreement; and iii) provide the Port with written reports describing Tenant's efforts and progress toward converting the yard cargo handling equipment; and b) the Port's obligations to reimburse Tenant for certain of its costs associated with completing the work covered by the grant agreement.

(j) Shore-Power.

Tenant shall fully comply with the California Air Resources Board's "Airborne Toxic Control Measure for Auxiliary Diesel Engines Operated on Ocean-Going Vessels At-Berth in California" regulation, commonly referred to as the At-Berth Regulation. In addition, Tenant shall cooperate with the Port and shall use commercially reasonable efforts to plug in 100% of the shore-power ready vessels to the extent practicable (e.g., to the extent the ship positioning allows it).

(k) Pilot Projects.

Tenant shall use commercially reasonable efforts to participate in pilot projects of new zero-emission marine terminal technologies upon the request of the Port, subject to feasibility.