

AGENDA REPORT

Ordinance: Approve and Authorize the Executive Director to Execute a First Amendment to a Temporary Rental Agreement with JLS Oakland Apartments, LLC for Premises Located at the Corner of Embarcadero West and Webster Street for a Monthly Rental Amount of \$1,530.00 and to Extend the Term Through December 31, 2019. **(CRE)**

<u>MEETING DATE:</u>	11/29/2018
<u>AMOUNT:</u>	Up to \$18,360.00 over the Term Revenue
<u>PARTIES INVOLVED:</u>	JLS Oakland Apartments, LLC (dba Mill Creek Residential) David Fiore, Managing Director
<u>SUBMITTED BY:</u>	Pamela Kershaw, Director of Commercial Real Estate
<u>APPROVED BY:</u>	Danny Wan, Acting Executive Director
<u>ACTION TYPE:</u>	Ordinance

EXECUTIVE SUMMARY

The subject Agenda Report is a request for Board approval to amend an existing Temporary Rental Agreement ("TRA") with JLS Oakland Apartments, LLC, dba Mill Creek Residential ("Permittee") to extend their TRA for a term up to one year (through December 31, 2019) with the option to terminate the agreement after four (4) months upon thirty (30) days' written notice by either party. The proposed action will enable Permittee to complete construction on an adjacent privately owned parcel and enable the Port to earn additional revenue from these premises.

BACKGROUND

The Port has an existing Temporary Rental Agreement with JLS Oakland Apartments, LLC for a section of the paved parking lot, also known as Lot 11, located on the northwest corner at the intersection of Embarcadero West and Webster Street. Permittee is constructing an apartment building on the privately owned parcel adjacent to the parking lot and uses the premises for the purposes of placement, maintenance, and dismantling of above grade scaffolding. The premises are also used for providing access to crews and for using lightweight equipment and machinery to support the work being done by crews working on scaffolding. The TRA commenced on January 1, 2018 and expires on December 31, 2018.

Permittee is requesting approval to modify the TRA to extend the term thru December 31, 2019, with the option to terminate the agreement after April 30, 2019 upon 30 days' written notice to the Port.

ANALYSIS

The section of the paved parking lot subject to the TRA is about 3,200 square feet and encompasses fourteen (14) parking stalls. The current monthly parking rate for the parking lot is \$78 per stall resulting in a maximum potential income of \$1,092 per month for the section permitted to JLS Oakland Apartments, LLC. This agreement will increase the revenue to the Port from this portion of the asset by at least \$438.00 per month.

In accordance with the TRA, the Permittee will also repair any damage to the asphalt, apply a coat of slurry seal, and re-stripe the entire parking lot. The cost to the Permittee for this work is estimated to be at least \$15,000.00.

The following is a summary of the terms of the proposed First Amendment:

Term Commencement	January 1, 2019
Term Expiration	December 31, 2019
Security Deposit	\$15,000.00
Rent	\$1,530.00 per month.
Extension Administrative Fee	One-time, non-refundable administrative fee of \$5,000 for Port's costs in preparing the amendment

Based on the analysis contained within this Agenda Report staff believes that the proposed amendment will provide additional income to the Port and enhances an existing Port asset and recommends approval of this First Amendment to the Temporary Rental Agreement.

BUDGET & STAFFING

The proposed First Amendment to the TRA will result in incremental revenue of at least \$1,752 compared to the adopted CRE Revenue Budget for FY 18/19.

The proposed action will have no impact on staffing as the existing property is currently managed by existing CRE Division staff.

MARITIME AVIATION PROJECT LABOR AGREEMENT (MAPLA)

The matters contained in this Agenda Report do 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.

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 Revenues
- Goal: Serve Our Community

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"), do not apply to this matter because tenancies outside of the Aviation and Maritime areas with entities that do not principally provide aviation or maritime services are excluded from the Living Wage Regulations.

SUSTAINABILITY

Port staff has reviewed the Port's 2000 Sustainability Policy and did not complete the Sustainability Opportunities Assessment Form. There are no sustainability opportunities related to this proposed action because it does not involve a development project, purchasing of equipment, or operations that present sustainability opportunities.

ENVIRONMENTAL

CEQA Determination: The action to amend an existing Temporary Rental Agreement with JLS Oakland Apartments, LLC to extend their TRA to continue using the premises for the purpose of staging construction materials and equipment has been determined to be categorically exempt from requirements of the California Environmental Quality Act (CEQA) Guidelines pursuant to Section 15301, Existing Facilities, 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. No changes to the premises or use are proposed.

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 Agenda Report as they are not capital improvement construction projects.

OPTIONS

1. Approve the proposed First Amendment to an existing TRA with JLS Oakland Apartments, LLC. for the premises located at the corner of Embarcadero West and Webster Street, for a term of up to one (1) year based on the terms and conditions stated within this Agenda Report. This is the recommended option.
2. Approve the proposed First Amendment to an existing TRA with JLS Oakland Apartments, LLC for the premises located at the corner of Embarcadero West and Webster Street, but subject to alternative terms and conditions, which depending on the nature of those alternative terms and conditions, may not be acceptable to JLS Oakland Apartments, LLC.
3. Do not approve the proposed First Amendment to the TRA with JLS Oakland Apartments, LLC which will likely result in lower revenue for the Port.

RECOMMENDATION

Staff recommends that the Board approve and authorize the Executive Director to execute a First Amendment to an existing Temporary Rental Agreement with JLS Oakland Apartments, LLC. for the premises located at the corner of Embarcadero West and Webster Street, subject to the terms and conditions stated within this Agenda Report, and subject to the approval as to form and legality by the Port Attorney. Furthermore, if this First Amendment to the TRA 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.

Attachments: Exhibit A - Site Map for Premises

EXHIBIT A

