

## AGENDA REPORT

**Ordinance:** Approve and Authorize Executive Director to Execute a Second Amendment to Extend the Term Through July 31, 2020, and Modify Other Terms of a Temporary Rental Agreement with the City of Oakland for Police Officer Staff Training at a Portion of the Berth 33 Backlands. **(Maritime)**

**MEETING DATE:** 6/13/2019

**AMOUNT:** \$0

**PARTIES INVOLVED:** City of Oakland, Oakland, CA  
Glenn Hara, Police Officer

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

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

**ACTION TYPE:** Ordinance

### **EXECUTIVE SUMMARY**

The City of Oakland (City) currently has a Temporary Rental Agreement (TRA) with the Port of Oakland (Port) for non-exclusive access and use of a portion of the Berth 33 Backlands to conduct as-needed specialized staff training for the Oakland Police Department. The TRA will expire on July 31, 2019 and Port Staff is requesting a one-year extension to the agreement, as well as other modifications to other terms.

### **BACKGROUND**

In November 2016, the City's Oakland Police Department (OPD) requested access and use of Port lands (specifically, an open asphalted area) for the purposes of conducting driving skills classes and related training for OPD officers. On August 1, 2017, the Port executed a one-year TRA with the City for as-needed, non-exclusive, OPD access and use of approximately 11.5 acres of paved land at the Berth 33 Backlands (the Premises). In September 2018, the Board authorized an amendment to extend the term of this TRA through July 30, 2019.

### **ANALYSIS**

The City has requested an additional one-year extension to the TRA. While the Port is supportive of OPD's continued access and use of the Premises, maritime related business interests are increasing for the Premises and adjacent areas at the Berth 33 Backlands. As evidence, in April 2019 the Port leased four acres of Berth 33 to the Pacific Maritime Association (PMA) for Longshore labor training. This new tenancy at Berth 33 has reduced the available

lands for OPD's use to approximately 6 acres (see Exhibit A). In light of this, the Port and OPD have agreed on modified terms. These modified terms include:

- Rent: \$0.00 (Unchanged)
- Security Deposit: \$0.00 (Unchanged)
- Term: August 1, 2019 – July 31, 2020 (Extended Term)
- Termination: Either party can terminate with 30-days' prior written notice (Unchanged)
- Premises: Approximately 6 acres of paved land (Modified Premises), as further depicted herein as Exhibit A (Modified Term)
- Reduction of Premises During Term of Agreement: In its sole discretion, the Port may modify the Premises with no less than 30-days' written notice (New Term)
- Improvements/Modifications to Premises: In its sole discretion, the Port may install fencing and/or barricades to further separate and protect OPD's Modified Premises and operations from existing adjacent and/or future tenants and uses. The City shall reimburse the Port for all costs incurred related to these improvements/modifications within thirty (30) calendar days of date on invoice (New Term)

Staff has determined that continuing to allow OPD temporary use of the Modified Premises under the terms outlined above provides a direct benefit to the City and can be accommodated without adverse impacts to the Port's maritime operations. Any TRA with a term of more than one-year requires approval from the Board. Consequently, Staff is requesting that the Board authorize the Executive Director to further amend the TRA as described herein.

## **BUDGET & STAFFING**

The proposed action does not have any budget or staffing impact.

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

The matters included 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: Strengthen Safety and Security
- 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, do not apply to this agreement because the City is a government agency.

### **SUSTAINABILITY**

Staff have 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 presents sustainability opportunities.

### **ENVIRONMENTAL**

The proposal to authorize the Executive Director to execute an amendment to extend the term of a TRA with the City for the use of approximately six acres of paved land at the Berth 33 Backlands for OPD officer driver training through July 31, 2020 was reviewed in accordance with the requirements of the California Environmental Quality Act ("CEQA") and the Port CEQA guidelines. The TRA is categorically exempt from CEQA pursuant to Section 15301(p) of the Port Guidelines which exempts the execution of leases or license agreements where the premises or licensed activity was previously leased or licensed to the same or another person involving negligible or no expansion of use beyond that previously existing. Extending the term of the TRA for the training purposes outlined above meets the criteria for this exemption.

### **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 action 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:

1. Authorize the Executive Director to extend and modify certain terms of the TRA with the City for access and use of a portion of the Berth 33 Backlands through July 31, 2020, all as described herein. **This is the recommended action.**
2. Authorize the Executive Director to extend the term of the TRA with the City, subject to different terms than those proposed, as may be directed by the Board.
3. Do not authorize the Executive Director to extend the term of the TRA with the City for access and use of a portion of the Berth 33 Backlands. Under this option, the City would vacate the Premises by July 31, 2019.

## **RECOMMENDATION**

Authorize the Executive Director to execute a Second Amendment to the Temporary Rental Agreement with the City of Oakland for Oakland Police Officer Training at an approximate 6-acre portion of the Berth 33 Backlands, which would extend the term through July 31, 2020 and modify other certain terms as described herein.

**EXHIBIT A**  
**PREMISES DESCRIPTION**

