

## AGENDA REPORT

**Ordinance:** Approve and Authorize a 4% Increase Each Year for the Next Three Years to the Target Rental Rates for Short-Term Rental Agreements and the Holdover Rental Rates for Certain Existing Property Rental Agreements within the Commercial Real Estate Division Portfolio **(CRE)**

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

**AMOUNT:** \$11,131 (FY20)  
Revenue

**PARTIES INVOLVED:** Various Existing Tenants and Properties

**SUBMITTED BY:** Pamela Kershaw, Director of Commercial Real Estate

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

**ACTION TYPE:** Ordinance

### **EXECUTIVE SUMMARY**

The subject agenda report is a request to approve a 4% increase each year for the next three years to the Target Rental Rates for Short-Term Rental Agreements and the Holdover Rental Rates for various existing property rental agreements in Commercial Real Estate Division (“CRE”) portfolio. The proposed rate increases will ensure that Port owned properties subject to future Short-Term Rental Agreements and existing property rental agreements in holdover status are priced at rates that are comparable to and appropriate for the local area, the particular property type, and the applicable property condition.

### **BACKGROUND**

Article IX, Section 6 of the By-Laws and Administrative Rules of the Board of Port Commissioners (“By-Laws”) establishes procedures for establishing rental rates for tenants subject to Short-Term Rental Agreements, as that term is defined in the By-Laws. These procedures apply to prospective tenancy agreements utilizing Short-Term Rental Agreements authorized by the Executive Director. The intended purpose of these regulations is to provide direction to the Executive Director, or his designee, as to the minimum rental amounts, or Target Rental Rates, to be achieved from Short-Term Rental Agreements for properties that are currently vacant, or may becoming vacant during the upcoming year.

The By-Laws authorize the Executive Director to execute such Short-Term Rental Agreements, which are limited in term to no longer than one year, at approved Target Rental

Rates. Short-Term Rental Agreements that do not meet these minimum Target Rental Rates require Board approval, except in limited specific circumstances listed in the By-Laws. The Target Rental Rates are based upon comparable market rental rates, Consumer Price Index ("CPI") information, local vacancy rates, comparable Tariff Rates being charged in the Maritime Division, and other real estate market indicators. These Target Rental Rates were last adjusted in November of 2017.

In addition, there are currently 10 tenants within the CRE Division portfolio which are in month to month holdover status under the terms of their existing property rental agreements, subject to a 30-day cancellation provision. Pursuant to the terms of these existing agreements, rental rates for these agreements may be adjusted in accordance with the Holdover Rental Rate increases established by the Board, in instances where no other specific holdover rental rate is identified in the existing property rental agreement. A listing of these existing tenants is attached to this report as Exhibit A.

## **ANALYSIS**

An analysis and comparison of several recent market condition reports published by local brokerage firms indicates that rental rates in the Oakland area for comparable commercial and industrial properties have continued to increase during the past 12-month period and that vacancy rates for commercial and industrial properties in the area continue to be extremely low. The regional CPI during the past year also increased by approximately 4.01%. Exhibit B provides a summary of this comparative market information from these various sources.

Based on an analysis of comparable rental rates in the local market, vacancy rates, the CPI index, and comparable Tariff Rates, staff recommends the adoption of new Target Rental Rates for new Short-Term Rental Agreements entered into during the next three years that equate to 4% annual increases each year, in an effort to remain consistent with comparable market rental rates in the Oakland area. In addition, staff also recommends 4% annual increases for a period of three years to the current Holdover Rental Rates for existing property rental agreements in holdover status listed on Exhibit A, which will bring these rates closer to market rents for these properties, or for other properties which may become subject to holdover status in the next three years, yet minimize the potential disruption to these existing businesses. Staff believes that the proposed Holdover Rental Rent increases and Target Rental Rates are more consistent with comparable rates and conditions in the surrounding area, generally consistent with Maritime Tariff rates for comparable properties, and establish minimum rental rates for the next three years that will ensure that CRE properties are aligned to comparable market rental rates appropriate for the specific land use type and asset conditions in the local area.

Based on the analysis above, staff recommends that the Board adopt the proposed Target Rental Rates as shown on Exhibit C to this Agenda Report for new Short-Term Rental Agreements authorized by the Port By-Laws, and approve a 4% annual increase for each of the next three years to the Holdover Rental Rates for applicable existing property rental agreements in the CRE portfolio as shown on Exhibit D to this Agenda Report.

## **BUDGET & STAFFING**

The proposed FY 2019-20 CRE Division revenue budget from the existing property rental agreements in holdover status is \$284,770. Adoption of the proposed Holdover Rental Rates will generate a positive variance of approximately \$4,642 when compared to the proposed budget for FY 2019-20 if these new rates are implemented in July of 2019.

With respect to the increase to Target Rental Rates for new Short-Term Rental Agreements to be entered into in the upcoming year, the actual amount of additional revenue received by the Port from this adjustment is difficult to predict due to the short-term nature of these agreements, the uncertainty of timing of when properties will be vacated or leased throughout the fiscal year, combined with the current very low vacancy rates in the CRE portfolio.

No staffing impact is anticipated from the proposed action as these existing property rental agreements and properties are currently managed by existing CRE Division staff.

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

The action proposed in this Agenda Report is not 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 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 B: Maintain and Aggressively Grow Core Businesses

- Goal B: Objective 1: Retain existing customers and tenants

Goal D: Improve the Port's Financial Position

- Goal D: Objective 1: Improve cash position and debt service and coverage ratio (DSCR)

## **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 because the requested action is not an agreement, contract, lease, or request to provide financial assistance within the meaning of the Living Wage Regulations.

## **SUSTAINABILITY**

This action does not propose any development for the leased area. If a licensee decides to develop the site in the future, the licensee must comply with the 2000 Sustainability Policy and complete the Sustainability Opportunities Assessment Form.

## **ENVIRONMENTAL**

CEQA Determination: This action was reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA). The CEQA Guidelines, Section 15061(b)(3) (“the general rule”) states that CEQA applies only to projects that have the potential for causing a significant effect on the environment. Increasing Target Rental Rates as described in Exhibit C and approving an increase to Holdover Rental Rates for certain affected properties within the CRE Division will not have a significant effect on the environment and therefore is not a project under CEQA. No further environmental review is required.

## **GENERAL PLAN**

The 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**

1. Approve the proposed 4% annual increases for a period of three years to Target Rental Rates as described in Exhibit C and approve a 4% increase for a period of three years to Holdover Rental Rates for certain properties within the CRE Division portfolio as described in Exhibit D. This is the recommended action.
2. Do not approve the proposed increase to Target Rental Rates or Holdover Rental Rates for affected properties within the CRE Division portfolio, which will result in property rental rates for these properties remaining at their current level, which would be below comparable market rates.
3. Approve the recommended increase to Target Rental Rates or Holdover Rental Rates for affected properties within the CRE Division portfolio, but subject to different rate increases than those recommended within this Agenda Report, which depending upon the rates chosen, may result in property rental rates for these properties which differ from comparable market rental rates within the area.

## **RECOMMENDATION**

It is recommended that the Board adopt an Ordinance approving the proposed 4% annual increase for each of the next three years to Target Rental Rates as described in Exhibit C to this Agenda Report and a 4% annual increase for each of the next three years to Holdover Rental Rates for certain existing property rental agreements within the CRE Division portfolio, as described in Exhibit D to this Agenda Report, and authorize the Executive Director or his designee to negotiate and execute such new agreements or adjustments to existing agreements in accordance with this Agenda Report, subject to approval as to form and legality by the Port Attorney.

Attachment A – CRE Tenancy Agreements Subject to Holdover Provisions

Attachment B – Market Rate Information

Attachment C - Proposed Target Rental Rates for CRE Division

Attachment D - Proposed Holdover Rental Rates for Existing Agreements