

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

6/13/19
Item No.: 2.1
MCR/msr
HBE JW

ORDINANCE APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A SECOND AMENDMENT TO THE TEMPORARY RENTAL AGREEMENT WITH THE CITY OF OAKLAND FOR POLICE OFFICER STAFF TRAINING THROUGH JULY 31, 2020 AT BERTH 33 IN THE SEAPORT.

WHEREAS, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the Agenda Report for Agenda Item 2.1, dated June 13, 2019 (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; and

WHEREAS, the Port entered into a rent-free Temporary Rental Agreement with the City of Oakland ("City") on or about August 1, 2017, for as-needed access and use by the City's police department of approximately 11.5 acres of paved land at the Berth 33 Backlands in the Seaport ("TRA"; and

WHEREAS, the Board authorizes an amendment to extend the term of the TRA through July 31, 2019; and

WHEREAS, the City has requested a one (1) year extension to the TRA, which Port staff recommends providing on modified terms to address increasing maritime-related business interests in the area; and 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 approves and authorizes the extension of the TRA with the City for police officer staff training on the following terms and conditions, and as further set forth in the Agenda Report:

- A. Premises: Approximately 6 acres of paved land at Berth 33;
- B. Term: August 1, 2019-July 31, 2020;
- C. Reduction in Premises During Term of Agreement: In its sole discretion and with no less than thirty (30) days written notice, Port may modify Premises.
- D. Improvements to Premises: In its sole discretion, Port may install fencing and/or barricades to separate and protect the Premises from adjacent tenants and uses.

- E. Monthly Rent: \$0;
- F. Security Deposit: \$0; and
- G. Use of Premises: As-needed access and use for purposes of conducting skills classes and training for City police department officers.

A. The Board further finds and determines based upon all the information received by the Port to date that the TRA extension provides a direct benefit to the Port and the city and can be accommodated without adverse impacts to the Port's maritime operations.

B. The Board further finds and determines based upon all the information received by the Port to date that the proposed TRA extension is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15301(p), which exempts the execution of leases or license agreement 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.

Section 3. The Board hereby approves and authorizes the Executive Director or his designee to execute a TRA extension with the City and to make minor amendments to the TRA consistent with the intent of 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