

AGENDA REPORT

Ordinance: Authorize the Executive Director to Approve a No-Cost Temporary License Agreement with the San Francisco Bar Pilots for Vehicle Parking and Vessel Access at Berth 34 for a Term of Three Years **(Maritime)**

MEETING DATE: 11/21/2019

AMOUNT: \$0

PARTIES INVOLVED: San Francisco Bar Pilots
Captain Joseph Long, Port Agent

SUBMITTED BY: John C. Driscoll, Director of Maritime

APPROVED BY: Danny Wan, Interim Executive Director

ACTION TYPE: Ordinance

EXECUTIVE SUMMARY

The San Francisco Bar Pilots (SFBP) currently have a Temporary License Agreement (TLA) with the Port of Oakland (Port) for (a) recurring but non-continuous parking of vehicles on Berth 34 while working on vessels arriving or departing the Port, and (b) for embarking and disembarking SFBP staff to/from SFBP vessels at Berth 34. The TLA will expire on January 31, 2020. Staff seeks the approval of the Board of Port Commissioners (Board) to enter into a new TLA for a period of 3 years with modified terms.

BACKGROUND

Founded in 1850, the SFBP has a 170-year history of navigating vessels into and out of the San Francisco Bay (SF Bay), including the Port. Nearly all commercial ships, including container vessels that call the Port, are required by state and federal law to use a licensed pilot while transiting within state pilotage waters.

In February 2019, following SFBP's request, the Port and SFBP entered into a TLA for recurring but non-continuous parking of vehicles at Berth 34, where pilots embark and disembark the SFBP vessels. Refer to the site maps attached as Exhibit A and Exhibit B. The TLA expires on January 31, 2020 and the SFBPs have requested that the TLA be extended. In order to extend the term of the agreement beyond the initial year, approval of the Board is required.

As discussed below, Staff is requesting a new TLA with certain modified terms.

ANALYSIS

Berth 34 is located in the Outer Harbor, between the Nutter and TraPac marine terminals. The TLA would cover an area comprising approximately 10,000 square feet of paved land with direct access from 7th Street. The BART transbay tube runs under this berth, which restricts the dredged water depth to -37 feet mean lower low water; the berth was most recently used for a variety of uses, including ro-ro operations, laying up bulk vessels, and SFBP parking/access.

Staff recommends entering into a new, 3-year TLA with the SFBPs because of the important service the SFBPs provide to Port customers. The TLA facilitates the SFBPs timely and direct access to their vessels (without this access, the SFBPs would likely be limited to accessing their vessels by means of going through a marine terminal). Key terms of the proposed TLA are as follows:

Effective Date: February 1, 2020

Term: Three years or through January 31, 2023. The term of the prior TLA was one year. There are no options to extend the TLA.

Termination: Either party can terminate with 30-days' advance written notice. This is a new requirement – prior TLA did not have an early termination provision.

Fee: \$0. This is unchanged from prior TLA (note: Tariff No. 2A exempts pilot vessels from dockage).

Security Deposit: \$10,000. This is a new requirement; the current TLA has no security deposit.

Environmental: SFBP will comply with the Port's current form of Environmental Exhibit.

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: Improve Customer Service

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 agreement as the tenancy agreement is not expected to generate greater than \$50,000 in payments to the Port over the term of the tenancy agreement. However, the tenant will be required to certify that should living wage obligations become applicable, the tenant shall comply with the Living Wage Regulations.

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, given the interim and non-continuous use of the proposed TLA extension.

ENVIRONMENTAL

CEQA Determination: The proposed no-cost TLA with SFBP for a term of three years, or through January 31, 2023 with modified termination rights and other Lease term changes as described herein, was reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA), and the Port CEQA Guidelines. This action is categorically exempt from CEQA pursuant to the Port CEQA Guidelines, Section 15301(p), which exempts renewals, extensions or amendments to 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.

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 enter into a no-cost TLA with the SFBP for vehicle parking on and vessel access to Berth 34 for a term of three years as described herein. **This is the recommended action.**
2. Authorize the Executive Director to enter into a TLA with SFBP, subject to different terms than those proposed, as may be directed by the Board.
3. Do not authorize the Executive Director to enter into a no-cost TLA with SFBP for vehicle parking on and vessel access to Berth 34 for a term of three years. Under this option, SFBP would vacate the Premises by January 31, 2020, and continue to serve Port vessel traffic through alternative access points.

RECOMMENDATION

Authorize the Executive Director to approve a no-cost Temporary License Agreement with the San Francisco Bar Pilots for vehicle parking and vessel access at Berth 34 for a term of three years commencing on February 1, 2020 and terminating on January 31, 2023, as described herein.

EXHIBIT A

Site Location Map

SEAPORT FACILITIES



EXHIBIT B

Site Map

