

PORT ORDINANCE NO. 4540

ORDINANCE APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE 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.

WHEREAS, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the Agenda Report for Agenda Item 2.2, dated November 21, 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 previous rent-free Temporary License Agreement with the San Francisco Bar Pilots ("SFBP") on or about February 1, 2019, for recurring but non-continuous parking of vehicles at Berth 34, where pilots embark and disembark from the SFBP vehicles; and

WHEREAS, the Port and the SFBP desire to enter into a new, three-year Temporary License Agreement ("TLA") with slightly modified terms, including a three-year term and the payment of a security deposit by SFBP; 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 execution of the TLA with SFBR with a term of February 1, 2020, through January 31, 2023, on the terms and conditions outlined in the TLA.

Section 3. The Board finds and determines that:

A. Based upon all the information received by the Port, the services provided by SFBR to multiple Port customers, which is facilitated by the timely and direct access by the SFBP to their vehicles is a direct benefit to the Port and can be accommodated without adverse impacts to the Port's maritime operations.

B. Based upon all the information received by the Port, the proposed TLA is exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Section 15301, which exempts from CEQA leasing and licensing of existing facilities, involving negligible or no expansion of existing or former use.

Section 4. The Board hereby approves and authorizes the Executive Director of the Port ("Executive Director") to execute the TLA with SFBR, subject to approval as to form and legality by the Port Attorney.

Section 5. 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.

The Board of Port Commissioners, Oakland, California, November 21, 2019. Passed to print for one day by the following vote: Ayes: Commissioners Colbruno, Leslie, Martinez, Story and President Butner - 5. Excused: Commissioners Cluver and Lee - 2. Noes: 0.

Daria Edgerly

Secretary of the Board

