



## Legislation Details (With Text)

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**Type:** Legislative Action Item **Status:** Passed  
**File created:** 8/17/2020 **In control:** City Council  
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**Title:** PORT - SECOND LEASE AMENDMENT WITH CEMEX SOUTHEAST, LLC  
**Sponsors:** Grover C. Robinson, IV  
**Indexes:**  
**Code sections:**  
**Attachments:** 1. Location Diagram, 2. Draft Second Lease Amendment

Date	Ver.	Action By	Action	Result
9/10/2020	1	City Council	Approved	Pass
9/8/2020	1	Agenda Conference	Placed on Consent Agenda	Pass

### **LEGISLATIVE ACTION ITEM**

**SPONSOR:** Grover C. Robinson, IV, Mayor

### **SUBJECT:**

PORT - SECOND LEASE AMENDMENT WITH CEMEX SOUTHEAST, LLC

### **RECOMMENDATION:**

That City Council approve the proposed Second Amendment to Lease Agreement with Cemex Southeast, LLC, and authorize the Mayor to execute the amendment and take all actions necessary to administer the amended lease.

**HEARING REQUIRED:** No Hearing Required

### **SUMMARY:**

The current lease between the City and CEMEX, which dates to 2002, is set to expire on Dec. 31, 2022. This proposed second amendment to that lease would provide Cemex with two additional 5-year renewal options. In consideration for the additional renewals, Cemex will:

- Increase the annual base rent from \$237,000 to \$324,000 with annual CPI-based increases.
- Increase the wharfage rate paid to the port on each ton of cargo moved from \$1.05 per ton to \$1.51 per ton and increase the minimum annual tonnage guarantee upon which that rate is assessed from 80,000 to 100,000 over five years.
- Assume responsibility for the costs of maintaining the Warehouse #6 rail trackage that Cemex has exclusive use of and pay a \$24,000 annual Common Area Infrastructure Maintenance Fee

to the port for maintenance of the non-exclusive rail trackage and internal roadways used by Cemex and other port users.

In addition to the above, it should also be noted that the proposed amendment eliminates the requirement that Cemex move 51% of their product by ship or barge. This is a requirement that does not exist in any other Port lease. It is also a requirement upon which Cemex has had an administrative waiver from the Port since 2006 when Berth 6 was closed to cargo operations due to the unsafe condition of the dock.

In its place, the proposed lease amendment requires Cemex to install at their cost and expense (estimated in excess of \$1 million) the vessel unloading systems necessary to facilitate receipt of product by water based on the current partially-rehabilitated condition of Berth 6. These systems would be required to comply with existing requirements that Cemex's operations not exceed 65dBa when measured at a distance of 1500 ft. from the source and not exceed 5% opacity when measured 20 ft. from the source. For comparison, 65dBa is about the same as the sound made by normal, casual conversation or by an air conditioning unit from 100 feet away. Such noise would only be present during active vessel discharge operations, which, based on anticipated cargo volumes, would most likely occur no more than 1 to 2 days per month at the most. The proposed amendment also establishes an expectation that Cemex will move product by water when market conditions permit. Cemex has told Port staff that Pensacola is their only Port terminal in Florida not currently receiving product by water and that they are anxious to be able to do so.

Approval of this lease amendment will not trigger any discernable change in Cemex's day-to-day operations. It will not create any increase in truck or rail traffic and actually facilitates the conditions for truck and rail counts to be reduced by requiring Cemex to invest in vessel unloading systems that do not currently exist at the terminal.

There are several other lease revisions included in the proposed amendment. These are not substantive and are primarily designed to bring the 18-year-old lease into compliance with current standard lease language and legal requirements.

#### **PRIOR ACTION:**

October 10, 2002 - City Council approved the lease with Reynolds Ready Mix, LLC

December 16, 2002 - City Council approved the first lease amendment.

March 28, 2005 - City executed an Assignment and Assumption Agreement transferring the transferred amended lease from Reynolds Ready Mix, LLC, to Cemex Southeast, LLC

#### **FUNDING:**

N/A

#### **FINANCIAL IMPACT:**

Revenue to the Port under Cemex's existing lease is \$345,000 annually. If approved, the additional 10 years would result in total revenue to the Port of \$5,235,600 (not including any rent adjustments or

tariff rate increases) for an average annual revenue of \$523,560.

This Lease Amendment will provide the Port with a secure and stable revenue stream through 2032, during which time staff can focus on fully implementing the Port Vision Plan with a particular focus on developing the public and semi-public marine-related amenities contemplated in the northeastern and northwestern quadrants of the Port.

**CITY ATTORNEY REVIEW:** Yes

8/25/2020

**STAFF CONTACT:**

Keith Wilkins, City Administrator  
Richard Barker Jr., Deputy City Administrator - Administration and Enterprises  
Amy Miller, Port Director

**ATTACHMENTS:**

- 1) Location Diagram
- 2) Draft Second Lease Amendment

**PRESENTATION:** No