



AGENDA REPORT

PROPOSED ACTION:

Ordinance: Approve and Authorize the Executive Director to Execute Amendments to the *U.S. Government Lease for Real Property-Lease No.GS-09B-02611* (“2011 Lease”) with the United States of America, General Services Administration (“GSA”), on behalf of the Transportation Security Administration (“TSA”), to Extend the Term of the *2011 Lease* By One-Year Increments for up to Ten Years at the Then Current Rates & Charges Rental Rate for Category II: Office Space.

Submitted By: Bryant L. Francis C.M., Director of Aviation; Danny Wan, Executive Director

Parties Involved: United States of America, General Services Administration, San Francisco, CA

Amount: \$169,431 (Per Month) Revenue (Based on FY 2023 Projected Rates & Charges)

EXECUTIVE SUMMARY: This action would authorize the Executive Director to approve amendments to the *2011 Lease* to extend the term of the *2011 Lease* for one-year increments for up to ten years at the then current Rates & Charges rental rate for Category II: Office Space for the fiscal year of each extended period and for no other purpose.

BACKGROUND & ANALYSIS

Pursuant to the terms of the Aviation and Transportation Security Act of 2001, the TSA is required to deploy federal security screeners, managers, and federal law enforcement officers to conduct screening of all passengers, property, baggage, and cargo and to ensure perimeter access security at all airports. In order to carry out this mandate, it is necessary for the TSA to use certain airport space and facilities defined under federal law as “necessary security checkpoints.” Pursuant to federal statute, airports are required to provide necessary security checkpoint space at no rent to the TSA. However, the statute does not obligate airports to provide rent-free space that serves to support these necessary security checkpoints.

The Port and the GSA (acting on behalf of the TSA) entered into a five-year agreement on October 1, 2002 (“*2002 Lease*”) allowing the TSA to occupy a 335 square foot administrative office on the second floor/mezzanine of Terminal 1. During its term, and with Board authorization, the *2002 Lease* was amended multiple times to add additional spaces in various locations to be used by the TSA for office, break, locker, and training rooms and the TSA’s total leased premises grew to approximately 3,453 square feet. Upon expiration of the *2002 Lease*, the Port and GSA entered into a subsequent four-year agreement (“*2007 Lease*”) under virtually the same terms and conditions of the *2002 Lease*.

Upon expiration of the *2007 Lease*, the Port and GSA entered into the current *2011 Lease* that updated the form agreement and extended the term for ten years, through September 30, 2021. During its term, and with Board authorization, the *2011 Lease* has been amended multiple times to consolidate TSA offices and add additional spaces in various locations growing the TSA's total leased premises at OAK to approximately 6,746 square feet. With Board approval, the *2011 Lease* was extended through September 30, 2022 at the rate of \$159,448.45 per month which represents the FY2022 Rates & Charges rate for Category II: Office Space.

OAK terminal rental rates are established annually through amendment of Ordinance No. 4430 ("Rates & Charges Ordinance") and are, therefore, subject to change. The GSA is prohibited from entering into real property leases without fixed rental rates. To rectify this discrepancy, the *2011 Lease* had a nominal term of ten years structured as a series of one-year terms amended to reflect the current year's terminal rent under "Category II: Office Space" as established through the amended Rates & Charges Ordinance. The *2011 Lease* will terminate on September 30, 2022, unless extended. The GSA desires to use its current form of lease to enter into an agreement for a new ten-year term, however the same conflict with variable rather than fixed rent exists with the GSA's current form of lease as existed with the lease form used for the *2011 Lease*. The GSA therefore desires to continue a series of one-year amendments of the *2011 Lease*. This requested Board action would authorize the Executive Director to approve amendments to the *2011 Lease* to extend the term of the *2011 Lease* for one-year increments for up to ten years at the then current Rates & Charges rental rate for Category II: Office Space for the fiscal year of each extended period and for no other purpose.

OTHER FINDINGS AND PROVISIONS

ENVIRONMENTAL REVIEW

The proposed action was analyzed under the California Environmental Quality Act (CEQA) and was found to be:

- ☒ Categorically exempt under the following CEQA Guidelines Section:
15301 (Existing Facilities)
- ☐ Exempt from CEQA because it is not a "Project" under CEQA Guidelines Section 15061(b)(3).
- ☐ Other/Notes:

BUDGET

- ☐ Administrative (No Impact to Operating, Non-Operating, or Capital Budgets); OR
 - ☒ Operating
 - ☐ Non-Operating
 - ☐ Capital

Analysis: The proposed action does not have any budget impact as this revenue is anticipated in the FY2023 operating budget.

STAFFING

- ☒ No Anticipated Staffing Impact.
- ☐ Anticipated Change to Budgeted Headcount.
Reason:
- ☐ Other Anticipated Staffing Impact (e.g., Temp Help).
Reason:

MARITIME AND AVIATION PROJECT LABOR AGREEMENT (MAPLA):

Applies? No (Not Aviation or Maritime CIP Project) – proposed action is not covered work on Port's Capital Improvement Program in Aviation or Maritime areas above the threshold cost.

- ☐ Additional Notes:

LIVING WAGE (City Charter § 728):

Applies?

No (Other) – see explanation below.

- ☒ Additional Notes: Living wage requirements do not apply to this action because the General Services Administration and Transportation Security Administration are government agencies.

SUSTAINABLE OPPORTUNITIES:

Applies? **No.**

GENERAL PLAN (City Charter § 727):

Conformity Determination:

<p><u>Reason:</u> The tenant has not proposed any development for the leased area. If the tenant decides to develop the leased area in the future, the tenant must comply with the 2000 Sustainability Policy.</p>	<p>No Project – conformity determination not required because proposed action does not change use of or make alterations to an existing facility or create a new facility.</p>								
<p><u>STRATEGIC PLAN.</u> The proposed action would help the Port achieve the following goal(s) and objective(s) in the Port's Strategic Business Plan:</p> <table border="0"> <tr> <td><input type="checkbox"/> Grow Net Revenues</td> <td><input type="checkbox"/> Modernize and Maintain Infrastructure</td> </tr> <tr> <td><input type="checkbox"/> Improve Customer Service</td> <td><input type="checkbox"/> Pursue Employee Excellence</td> </tr> <tr> <td><input checked="" type="checkbox"/> Strengthen Safety and Security</td> <td><input type="checkbox"/> Serve Our Community</td> </tr> <tr> <td><input type="checkbox"/> Care for Our Environment</td> <td></td> </tr> </table>		<input type="checkbox"/> Grow Net Revenues	<input type="checkbox"/> Modernize and Maintain Infrastructure	<input type="checkbox"/> Improve Customer Service	<input type="checkbox"/> Pursue Employee Excellence	<input checked="" type="checkbox"/> Strengthen Safety and Security	<input type="checkbox"/> Serve Our Community	<input type="checkbox"/> Care for Our Environment	
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