

PORT ORDINANCE NO. 4405

ORDINANCE AUTHORIZING AND APPROVING THE EXTENSION OF SPACE ASSIGNMENT AGREEMENTS THAT HAVE BEEN IN EFFECT FOR MORE THAN ONE YEAR AS OF DECEMBER 15, 2016 AND AUTHORIZATION TO EXTEND CERTAIN SPACE ASSIGNMENT AGREEMENTS THAT ARE LIKELY TO BE IN EFFECT FOR MORE THAN ONE YEAR AS OF DECEMBER 2017.

WHEREAS the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the proposed extension of space assignment agreements in the Port's Maritime Area as set forth in the Agenda Report for Agenda Item 6.1, dated December 15, 2016 (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

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 finds and determines as follows:

A. The proposed extension of space assignments with maritime area tenants is categorically exempt from the California Environmental Quality Act (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. Extending the space assignments with existing tenants to continue their current business operations meets the criteria for this exemption.

B. Some of the space assignment premises are under regulatory agency oversight with deed restrictions on the property:

- The former Oakland Army Base ("OAB"), which is under the oversight of the State of California's Department of Toxic Substances Control ("DTSC") (EnviroStor site 01970016) due to a variety of historic contaminants in soil and groundwater, remaining from the OAB's former use as a military installation. Most of the sites have been remediated. Two deed restrictions¹ on the OAB prohibit certain land uses and activities, such as groundwater extraction and excavation or soil disturbance without DTSC review and approval, and compliance with the final Remedial Action Plan and Risk Management Plan, among other conditions. Furthermore, interim leasing of property at the former OAB was described and analyzed in the 2002 Oakland Army Base ("OAB") Area Redevelopment Plan Environmental Impact Report ("EIR") and the 2012 OAB

¹ http://www.envirostor.dtsc.ca.gov/regulators/deliverable_documents/7657270133/Land%20Use%20Covenant.pdf
http://www.envirostor.dtsc.ca.gov/regulators/deliverable_documents/1262481510/P181921%20Land%20Use%20Covenant%20%5BRecorded%206-29-07%5D.pdf

Project Initial Study/Addendum ("IS/Addendum"), which were previously considered by the Board.

- The former U.S. Navy Fleet and Industrial Supply Center Oakland site that is under the oversight of the DTSC (EnviroStor site CA4170090027) due to volatile organic compounds in shallow groundwater, remaining from its former use as a military installation. A deed restriction² on that portion of the site prohibits constructing wells and extracting groundwater. DTSC considers this site closed.
- The former Union Pacific Railroad Roundhouse property that is under the oversight of the Regional Water Quality Control Board ("RWQCB") (Geotracker site SL18339759) due to petroleum products in soil and groundwater, remaining from the site's former use by Western Pacific and Union Pacific Railroads. A deed restriction³ on the Roundhouse site prohibits certain land uses and activities, such as groundwater extraction and excavation or soil disturbance without RWQCB review and approval, requires compliance with a Site Management Plan, and requires surface covers, among other conditions. The RWQCB considers this site closed.
- A portion of the Howard terminal property that is under the oversight of DTSC (EnviroStor site 01440006) due to volatile organic compounds, polynuclear aromatic hydrocarbons, total petroleum hydrocarbons, lead, and cyanide in soil and groundwater, remaining from a former use as a manufactured gas plant. A deed restriction⁴ on that portion of the site prohibits certain land uses and activities, such as disturbance of the asphalt cover, groundwater extraction and excavation or soil disturbance without DTSC review and approval of a health and safety plan, among other conditions.
- The former McGuire property that is under the oversight of the DTSC (EnviroStor site 01280092) due to volatile organic compounds in shallow groundwater, remaining from a former use as a marine chemical terminal and hazardous materials bulk storage and processing facility. A deed restriction⁵ on that portion of the site prohibits certain land uses and activities, such as groundwater extraction and excavation or soil disturbance without DTSC review and approval of a soil management plan.

Continued use of these deed-restricted sites for maritime support purposes is not subject to CEQA under Section 15061(b) (3) of the CEQA Guidelines,

² http://www.envirostor.dtsc.ca.gov/regulators/deliverable_documents/4256138443/Land%20Use%20Covenant%20%5Brecorded%202-22-01%5D.pdf

³ https://geotracker.waterboards.ca.gov/regulators/deliverable_documents/7523511588/UPRR%20Roundhouse%20deed%20restriction.pdf

⁴ http://www.envirostor.dtsc.ca.gov/regulators/deliverable_documents/4891050040/Howard%20Terminal%20Land%20Use%20Covenant.pdf
http://www.envirostor.dtsc.ca.gov/regulators/deliverable_documents/8129270255/Howard%20Terminal%20Land%20Use%20Covenant%20Amendment.pdf

⁵ http://www.envirostor.dtsc.ca.gov/regulators/deliverable_documents/4540135025/LUC.Port.Final.Execu.recorded.pdf

which states that CEQA applies only to activities that have a potential for causing a significant effect on the environment. It can be seen with certainty that there is no possibility that extending the existing space assignments with existing tenants for the same uses on these sites will result in a physical change in the environment, and therefore this action is not subject to CEQA.

SECTION 3. The Board approves the extensions set forth in the Agenda Report and authorizes the Executive Director to extend (i) those Space Assignment Agreements set forth in Table 1 in Attachment A to this Ordinance that have been in effect for more than one (1) year as of December 15, 2016 and (ii) those Space Assignment Agreements set forth in Table 2 of Attachment A to this Ordinance that have been in effect for less than one year but are likely to remain as tenants for more than one year prior to the next scheduled request to extend these agreements in December 2017. The Board authorizes and approves extension of said agreements on a month-to-month basis under the same terms and conditions and at such rates as are set forth in Port Tariff 2-A, as the same may be amended from time to time by the Board. Each of the month-to-month Space Assignment Agreements herein authorized shall be subject to further Board review and approval in the event that any such Space Assignment Agreements continue for more than one (1) year.

SECTION 4. The Board hereby approves and authorizes the extension of Space Assignment Agreements with the following tenants: Conglobal Industries, Shippers Transport Express and TraPac with negotiated security deposits that total less than three (3) months' rent based on the Executive Director's approval of a lower amount as determined to be in the best interests of the Port. All other Space Assignment Agreements listed in Tables 1 and 2 of Attachment A to this Ordinance are subject to Port policy of requiring a security deposit equal to three (3) months' rent.

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. This resolution approves and authorizes the execution of an agreement in accordance with the terms of this resolution. Unless and until a separate written agreement is duly executed on behalf of the Board as authorized by this resolution, is signed and approved as to form and legality by the Port Attorney, and is delivered to other contracting party, there shall be no valid or effective agreement.

The Board of Port Commissioners, Oakland, California, December 15, 2016. Passed to print for one day by the following vote: Ayes: Commissioners Butner, Cluver, Hamlin, Martinez, Story, Yee and President Colbruno - 7. Noes: 0.

John T. Betterton
Secretary of the Board

ATTACHMENT A
APPROVAL OF EXTENSION OF SPACE ASSIGNMENTS

Table 1: Space Assignments That Have Been In Effect for More than One Year

Company	Agreement	Type of use	Lease Start Date	Monthly Rent
A.V. Trucking Company	1334MMJ5	Trucking ops	9/15/12	\$8,228.00
Academy of Truck Driving	1182MMJ1	Parking of training vehicles	8/1/06	\$612.61
Academy of Truck Driving	1185MMJ1	Office and training space	8/1/06	\$1,543.65
Amnav Maritime Services	1172MMJ1	Tug boat operations	7/1/06	\$7,320.94
Ariana Hot Dog	1368MMJ3	Food vendor	10/15/13	\$140.00
Best Bay Trucking	1389MMJ4	Trucking ops	9/29/14	\$15,375.51
Bridgeport Transportation	OHQ1028	Office space	8/1/03	\$848.70
Bridgeport Transportation	1286MMJ1	Office space	4/1/11	\$1,175.88
Bridgeport Transportation	1377MMJ1	Trucking ops	2/1/14	\$15,922.92
CCIG Properties	1403MMJ1	Storage of rail materials	6/1/15	\$1,989.46
California Freight Sales	1318MMJ1	Trucking ops	7/1/06	\$8,963.50
California Multimodal	1195MMJ5	Office space and trucking ops	7/1/07	\$42,689.07
Conglobal Industries	1398MMJ5	Container operations	5/1/15	\$141,996.95
CP Carrier	1138MMJ1	Office space and trucking ops	7/15/05	\$1,255.37
CP Carrier	1246MMJ1	Trucking ops	2/1/09	\$8,963.50
Crowley Marine Services	1170MMJ1	Tug boat operations	7/1/06	\$3,598.14
CTS Tires and Recycling	1363MMJ1	Truck repairs	10/1/13	\$3,433.84
Delicias De Acapulco	1262MMJ1	Food vendor	9/1/09	\$140.00
Digital Realty Trust	1280MMJ3	Storage and auto parking	7/13/10	\$2,586.30
El Patron Lonchera	1229MMJ3	Food vendor	6/1/08	\$140.00
Fred's Truck Service	1404MMJ1	Truck repairs	7/1/15	\$4,378.50
Fundis Company	OHQ932	Truck scale	12/1/00	\$4,638.00

Fundis Company	1245MMJ1	Trucking ops	2/1/09	\$12,716.00
Intermodal Logistics	1370MMJ1	Trucking ops	12/1/13	\$4,799.96
La Chole	MHQ1031	Food vendor	9/1/03	\$140.00
Legner & Sons Express	1173MMJ1	Office and trucking ops	7/1/06	\$10,289.12
Maritech Equipment	1089MMJ1	Office space and repair shop	1/1/05	\$3,917.89
MC&PL Tire and Road Svc.	1105MMJ5	Truck tire repair	4/1/05	\$396.44
Metritech LLC	1268MMJ1	RFID center	12/17/09	\$118.20
Newport Carriers	1408MMJ4	Trucking ops	8/1/15	\$8,145.72
North Central Truck Supply	1311MMJ1	Truck parts	8/1/11	\$7,012.50
Occupational Testing	1371MMJ1	Trucker physicals	1/1/14	\$1,390.00
Pacific Maritime Assoc.	1378MMJ4	ILWU training	2/24/14	\$29,061.67
Pena's Trucking Service	1351MMJ1	Trucking ops	4/15/13	\$8,963.50
Port Transfer	1177MMJ1	Trans-loading operations	7/1/06	\$5,292.48
Progressive Transportation	OHQ984	Office space	8/1/02	\$1,826.55
Progressive Transportation	1233MMJ5	Trucking ops	9/1/08	\$3,740.00
R&G Express	1352MMJ1	Trucking ops	6/1/13	\$9,062.00
Ranokx Logistics	1400MMJ4	Trucking ops	4/1/15	\$17,643.45
Rick's Portable Welding	1375MMJ1	Equipment repair	3/1/14	\$1,135.16
Schnitzer Steel	1221MMJ3	Steel export ops	5/1/08	\$3,276.85
Schnitzer Steel	1231MMJ3	Steel export ops	1/16/11	\$4,198.11
Schnitzer Steel	1284MMJ3	Steel export ops	4/1/11	\$1,587.50
Shippers Transport Express	1399MMJ5	Container ops	5/1/15	\$167,489.88
Sincere Hardware	1241MMJ4	Product storage	12/1/08	\$2,300.10
S-Line Transportation	1393MMJ4	Trucking ops	12/3/14	\$18,430.72
Tacos Los Cuates	1253MMJ4	Food vendor	6/1/09	\$140.00
Tran Kim Muoi	1333MMJ2	Food vendor	6/1/12	\$140.00
Unicold	1388MMJ5	Container storage	8/15/14	\$2,618.00
United Intermodal	1236MMJ1	Container depot	5/1/09	\$53,625.13
Westar Marine Services	1165MMJ1	Water taxi services	4/1/06	\$654.50

Wings Century Trucking	1307MMJ1	Trucking ops	8/1/11	\$18,878.5 1
XPO Drayage	1379MMJ4	Trucking ops	3/1/14	\$29,426.4 4

Table 2: Space Assignments In Effect for Less than One Year But Likely to Extend Beyond Twelve Months from Execution

Company	Agreement	Type of use	Lease Start Date	Monthly Rent
Bridgeport Transportation	1435MMJ1	Trucking ops	8/1/16	\$5,161.75
ConGlobal Industries	1449MMJ1	Container depot	10/10/16	\$23,527.9 9
K&W Trucking Group	1427MMJ4	Trucking ops	3/1/16	\$2,992.00
Port Transfer	1423MMJ1	Trans-loading ops	4/1/16	\$70,329.6 0
SAI Trucking	1438MMJ1	Trucking ops	8/22/16	\$10,259.7 6
Sea-Logix	1433MMJ1	Container ops	4/30/16	\$4,955.50
Singh Express	1437MMJ1	Trucking ops	8/1/16	\$11,441.7 6
Star J Trucking	1440MMJ1	Trucking ops	8/1/16	\$10,259.7 6
Sunny Trucking	1450MMJ1	Trucking ops	11/1/16	\$6,961.98
Terex Financial Services	1436MMJ1	Equipment storage	7/1/16	\$6,291.00
TraPac LLC	1430MMJ1	Container ops	4/1/16	\$22,504.5 4
Villegas Diesel Tech	1418MMJ1	Truck repairs	2/1/16	\$6,757.50
World Transportation	1447MMJ1	Trucking ops	9/1/16	\$7,276.50