

## AGENDA REPORT

**Ordinance:** Authorization to Extend Space Assignment Agreements that have been in effect for more than one year as of December 14, 2017; Authorization to Extend Space Assignment Agreements that are likely to be in effect for more than one year as of December 31, 2018; and Waiver of the Three-Month Security Deposit Requirement for Three Tenants. **(Maritime)**

|                                 |  |
|---------------------------------|--|
| <b><u>MEETING DATE:</u></b>     | 12/14/2017                               |
| <b><u>AMOUNT:</u></b>           | \$10.1 million (FY 2017-18)<br>Revenue   |
| <b><u>PARTIES INVOLVED:</u></b> | Various, as listed in Agenda Report      |
| <b><u>SUBMITTED BY:</u></b>     | John C. Driscoll, Director of Maritime   |
| <b><u>APPROVED BY:</u></b>      | J. Christopher Lytle, Executive Director |
| <b><u>ACTION TYPE:</u></b>      | Ordinance                                |

### **EXECUTIVE SUMMARY**

Staff requests the Board's authorization to extend Space Assignment Agreements with certain Maritime tenants that have been in effect longer than one year, or are expected to be in effect longer than one year, and waive the three-month security deposit requirement for three tenants as described herein.

### **BACKGROUND**

The Maritime Division has 67 Space Assignment Agreements, which generate approximately \$10.1 million in annual revenues. Space Assignment Agreements are cancelable by either party upon 30 days' notice. It is the Port's practice to enter into these agreements without prior Board approval, as they are initially viewed as short-term agreements (less than one year). Once these tenants are in place or anticipated to be in place for more than one year, Board approval of their lease agreements is required. Of the 67 space assignments, 58 have been in place or are anticipated to be in place for more than one year. On average, the tenure of these tenants is currently 5.8 years; some tenants have been under tenancy for more than 10 years.

Space Assignment Agreements are at rates that have been predetermined by the Board as set forth in Tariff 2-A, and are for Maritime tenants who are using property that is not currently leased on a long-term basis. In many cases, the Port does not have immediate plans to use

the subject properties, so the agreements allow the Port to earn revenue from the properties while still keeping the land available for future development.

The types of uses authorized under the agreements are varied, including trucking companies, warehouse operators, cross-docking, tugboat operations, truck scales, office spaces for trucking companies, trucking and container depots and food vendors.

## **ANALYSIS**

### **Length of Agreements**

There are 58 Space Assignment Agreements that have been in effect for more than one year, covering 51 different tenants. These agreements are summarized in the table below.

| <b>Company</b>            | <b>Agreement</b> | <b>Type of use</b>            | <b>Lease Start Date</b> | <b>Monthly Rent</b> |
|---------------------------|------------------|-------------------------------|-------------------------|---------------------|
| A.V. Trucking Company     | 1334MMJ5         | Trucking ops                  | 9/15/12                 | \$8,492.00          |
| Academy of Truck Driving  | 1182MMJ1         | Parking of training vehicles  | 8/1/06                  | \$632.27            |
| Academy of Truck Driving  | 1185MMJ1         | Office and training space     | 8/1/06                  | \$1,593.85          |
| Amnav Maritime Services   | 1172MMJ1         | Tug boat operations           | 7/1/06                  | \$7,552.57          |
| Ariana Hot Dog            | 1368MMJ3         | Food vendor                   | 10/15/13                | \$150.00            |
| Best Bay Trucking         | 1389MMJ4         | Trucking ops                  | 9/29/14                 | \$17,046.15         |
| Bridgeport Transportation | 1286MMJ1         | Office space and trucking ops | 4/1/11                  | \$11,239.58         |
| Bridgeport Transportation | 1377MMJ1         | Trucking ops                  | 2/1/14                  | \$16,407.88         |
| Bridgeport Transportation | 1435MMJ1         | Trucking ops                  | 8/1/16                  | \$5,321.41          |
| CCIG Properties           | 1403MMJ1         | Storage of rail materials     | 6/1/15                  | \$2,046.54          |
| California Freight Sales  | 1318MMJ1         | Trucking ops                  | 7/1/06                  | \$9,236.50          |
| Conglobal Industries      | 1398MMJ5         | Container operations          | 5/1/15                  | \$121,598.30        |
| CPX Carrier               | 1138MMJ1         | Office space and trucking ops | 7/15/05                 | \$1,295.99          |
| CPX Carrier               | 1246MMJ1         | Trucking ops                  | 2/1/09                  | \$9,236.50          |
| CTS Tires and Recycling   | 1363MMJ1         | Truck repairs                 | 10/1/13                 | \$3,540.27          |
| CTS Tires and Recycling   | 1451MMJ1         | Truck/car parking             | 1/1/17                  | \$2,017.30          |
| Digital Realty Trust      | 1280MMJ3         | Storage and auto parking      | 7/13/10                 | \$2,664.00          |
| El Patron Lonchera        | 1229MMJ3         | Food vendor                   | 6/1/08                  | \$150.00            |
| Fred's Truck Service      | 1404MMJ1         | Truck repairs                 | 7/1/15                  | \$4,511.50          |
| Fundis Company            | OHQ932           | Truck scale                   | 12/1/00                 | \$4,782.00          |
| Fundis Company            | 1245MMJ1         | Trucking ops                  | 2/1/09                  | \$13,124.00         |
| Intermodal Logistics      | 1370MMJ1         | Trucking ops                  | 12/1/13                 | \$4,952.83          |
| K&W Trucking Group        | 1427MMJ4         | Trucking ops                  | 3/1/16                  | \$3,088.00          |
| La Chole                  | MHQ1031          | Food vendor                   | 9/1/03                  | \$150.00            |

|                            |          |                              |          |              |
|----------------------------|----------|------------------------------|----------|--------------|
| Legner & Sons Express      | 1173MMJ1 | Office and trucking ops      | 7/1/06   | \$9,451.14   |
| Maritech Equipment         | 1089MMJ1 | Office space and repair shop | 1/1/05   | \$4,031.61   |
| MC&PL Tire and Road Svc.   | 1105MMJ5 | Truck tire repair            | 4/1/05   | \$409.16     |
| Metritech LLC              | 1268MMJ1 | RFID center                  | 12/17/09 | \$121.80     |
| North Central Truck Supply | 1311MMJ1 | Truck parts                  | 8/1/11   | \$7,237.50   |
| Oakland Port Trucking      | 1426MMJ4 | Trucking ops                 | 12/1/16  | \$11,291.83  |
| Occupational Testing       | 1371MMJ1 | Trucker physicals            | 1/1/14   | \$1,430.00   |
| Pacific Maritime Assoc.    | 1378MMJ4 | ILWU training                | 2/24/14  | \$42,035.40  |
| Pena's Trucking Service    | 1351MMJ1 | Trucking ops                 | 4/15/13  | \$9,236.50   |
| Pinnacle Ag Services       | 1449MMJ1 | Trans-loading operations     | 11/1/16  | \$55,257.00  |
| Port Transfer              | 1177MMJ1 | Trans-loading operations     | 7/1/06   | \$5,435.52   |
| R&G Express                | 1352MMJ1 | Trucking ops                 | 6/1/13   | \$4,872.00   |
| Ranokx Logistics           | 1400MMJ4 | Trucking ops                 | 4/1/15   | \$7,913.00   |
| Rick's Portable Welding    | 1375MMJ1 | Equipment repair             | 3/1/14   | \$1,165.84   |
| SAI Trucking               | 1438MMJ1 | Trucking ops                 | 8/22/16  | \$14,551.04  |
| Schnitzer Steel            | 1231MMJ3 | Steel export ops             | 1/16/11  | \$4,330.34   |
| Schnitzer Steel            | 1284MMJ3 | Steel export ops             | 4/1/11   | \$1,637.50   |
| Sea-Logix                  | 1433MMJ1 | Container ops                | 4/30/16  | \$5,114.50   |
| Shippers Transport Express | 1399MMJ5 | Container ops                | 5/1/15   | \$163,992.29 |
| Sincere Hardware           | 1241MMJ4 | Product storage              | 12/1/08  | \$2,373.90   |
| Singh Express              | 1437MMJ1 | Trucking ops                 | 8/1/16   | \$21,712.50  |
| S-Line Transportation      | 1393MMJ4 | Trucking ops                 | 12/3/14  | \$20,063.12  |
| Star J Trucking            | 1440MMJ1 | Trucking ops                 | 8/1/16   | \$10,572.24  |
| Sunny Trucking             | 1450MMJ1 | Trucking ops                 | 11/1/16  | \$7,174.02   |
| Tacos Los Cuates           | 1253MMJ4 | Food vendor                  | 6/1/09   | \$150.00     |
| Terex Financial Services   | 1436MMJ1 | Equipment storage            | 7/1/16   | \$6,480.00   |
| Tran Kim Muoi              | 1333MMJ2 | Food vendor                  | 6/1/12   | \$150.00     |
| TraPac LLC                 | 1430MMJ1 | Container ops                | 4/1/16   | \$4,181.76   |
| Unicold                    | 1388MMJ5 | Container storage            | 8/15/14  | \$2,101.77   |
| Villegas Diesel Tech       | 1418MMJ1 | Truck repairs                | 2/1/16   | \$6,892.50   |
| Westar Marine Services     | 1165MMJ1 | Water taxi services          | 4/1/06   | \$675.50     |
| Wings Century Trucking     | 1307MMJ1 | Trucking ops                 | 8/1/11   | \$19,453.49  |
| World Transportation       | 1447MMJ1 | Trucking ops                 | 9/1/16   | \$7,206.50   |
| XPO Drayage                | 1379MMJ4 | Trucking ops                 | 3/1/14   | \$30,360.67  |

The following 9 tenants have Space Assignment Agreements that have been in effect less than one year but are likely to remain as tenants for more than one year prior to the next scheduled request to extend Space Assignment Agreements (December 2018).

| <b>Company</b>             | <b>Agreement</b> | <b>Type of use</b> | <b>Lease Start Date</b> | <b>Monthly Rent</b> |
|----------------------------|------------------|--------------------|-------------------------|---------------------|
| CMI Transportation, LLC    | 1476MMJ5         | Trucking ops       | 12/1/17                 | \$30,653.65         |
| Energy Product Company     | 1455MMJ1         | Fueling truck ops  | 9/1/17                  | \$2,984.10          |
| Fast Way Xpress            | 1458MMJ1         | Trucking ops       | 4/1/17                  | \$11,726.55         |
| North Central Truck Supply | 1464MMJ1         | Truck parking      | 7/1/17                  | \$2,754.45          |
| Olivia's Catering Truck    | 1475MMJ1         | Food vendor        | 10/1/17                 | \$150.00            |
| PRO-SE Services            | 1452MMJ3         | Trucking ops       | 2/1/17                  | \$3,380.06          |
| Sea Road Transportation    | 1469MMJ1         | Trucking ops       | 7/1/17                  | \$11,790.24         |
| Speed Intermodal           | 1465MMJ1         | Trucking ops       | 5/1/17                  | \$10,344.80         |
| United Bridge Trans.       | 1472MMJ1         | Trucking ops       | 9/1/17                  | \$12,789.00         |

Most of these tenants provide services directly to or in support of maritime activity at the marine terminals and rail yards located in the heart of the seaport, with the exception of Digital Realty Trust and Sincere Hardware, who are tenants located at the former Harbor Facilities parking lot on Brush Street, approximately five blocks from the Port headquarter offices. This space has not been successfully leased to a Maritime operator due to its location, small size, and accessibility. Staff recommends the continuation of the afore-listed agreements because they are critical to continuity of maritime revenue and contribute to overall maritime operations.

#### Security Deposits

Three Space Assignment Agreements, summarized in the table below, have security deposits of less three months' rent based on the Executive Director approval of a lower amount due to the nature of the agreement. Staff is not proposing to modify these agreements (i.e., they are in the updated form of agreement and Staff does not propose to increase the security deposit). As shown in the table one of the tenants (ConGlobal) has a one-month security deposit requirement while the other two tenants (Shippers Transport Express and TraPac) have no security deposit requirement. All other space assignment tenants are still subject to the Port's three-month security deposit requirement.

| <b>Company</b>             | <b>Agreement</b> | <b>Security deposit</b> | <b>Reason</b>  |
|----------------------------|------------------|-------------------------|--|
| ConGlobal Industries       | 1398MMJ1         | One month               | Negotiated amount  |
| Shippers Transport Express | 1399MMJ5         | None                    | Tenant has a 25-year track record of prompt payments               |
| TraPac                     | 1430MMJ1         | None                    | Tenant has multi-million dollar lease for adjacent marine terminal |

## **BUDGET & STAFFING**

The Space Assignment Agreements covered in this Agenda Report represent average monthly revenue of approximately \$839,000 and annual revenue of about \$10.1 million. This revenue was included in the FY 2017-18 Maritime Division operating revenue budget.

The proposed action is not expected to have an impact on staffing.

## **MARITIME AVIATION PROJECT LABOR AGREEMENT (MAPLA)**

The action to approve the Lease Agreements does 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 to this action. However, if in the future tenant construction work under these Lease Agreements exceeds the thresholds required for coverage under the MAPLA, the provisions of MAPLA will apply when Port Permits are requested for that construction work.

## **STRATEGIC PLAN**

The action described herein would help the Port achieve the following goals and objectives in the Port's Strategic Plan (<http://www.portofoakland.com/pdf/about/strategicPlan2011-2015.pdf>)

### **Goal A: Create Sustainable Economic Growth for the Port and Beyond**

- Goal A: Objective 1: Maximize the use of existing assets.

### **Goal B: Maintain and Aggressively Grow Core Businesses**

- Goal B: Objective 1: Retain existing customers and tenants.

## **LIVING WAGE**

Living wage requirements will apply to these lease agreements if the tenants employ 21 or more employees working on Port-related work and the tenancy agreements generate more than \$50,000 annually.

## **ENVIRONMENTAL**

The proposed extension of Space Assignment Agreements 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 Assignment Agreements with existing tenants to continue their current business operations meets the criteria for this exemption.

Some of the space assignment premises are under regulatory agency oversight with deed restrictions on the following properties:

- 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 restrictions 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.<sup>[1]</sup> Furthermore, interim leasing of property at the former OAB was described, analyzed and covered under CEQA in the 2002 Oakland Army Base (OAB) Area Redevelopment Plan Environmental Impact Report (EIR) and the 2012 OAB 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 restriction on that portion of the site prohibits constructing wells and extracting groundwater.<sup>[2]</sup> 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 restriction 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.<sup>[3]</sup> The RWQCB considers this site closed.
- A portion of the Howard terminal property that is under the oversight of the 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 restriction on that portion of the site prohibits certain land uses and activities, such as disturbance of the asphalt cover, groundwater extraction and excavation

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<sup>[1]</sup> [www.envirostor.dtsc.ca.gov/regulators/deliverable\\_documents/7657270133/Land%20Use%20Covenant.pdf](http://www.envirostor.dtsc.ca.gov/regulators/deliverable_documents/7657270133/Land%20Use%20Covenant.pdf) and [www.envirostor.dtsc.ca.gov/regulators/deliverable\\_documents/1262481510/P181921%20Land%20Use%20Covenant%20%5BRecorded%206-29-07%5D.pdf](http://www.envirostor.dtsc.ca.gov/regulators/deliverable_documents/1262481510/P181921%20Land%20Use%20Covenant%20%5BRecorded%206-29-07%5D.pdf)

<sup>[2]</sup> [www.envirostor.dtsc.ca.gov/regulators/deliverable\\_documents/4256138443/Land%20Use%20Covenant%20%5BRecorded%202-22-01%5D.pdf](http://www.envirostor.dtsc.ca.gov/regulators/deliverable_documents/4256138443/Land%20Use%20Covenant%20%5BRecorded%202-22-01%5D.pdf)

<sup>[3]</sup> [http://geotracker.waterboards.ca.gov/regulators/deliverable\\_documents/7523511588/UPRR%20Roundhouse%20deed%20restriction.pdf](http://geotracker.waterboards.ca.gov/regulators/deliverable_documents/7523511588/UPRR%20Roundhouse%20deed%20restriction.pdf)

or soil disturbance without DTSC review and approval of a health and safety plan, among other conditions.<sup>[4]</sup>

- 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 restriction 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.<sup>[5]</sup>

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, which states that CEQA applies only to activities that have a potential for causing a significant effect on the environment. Staff has determined with certainty that there is no possibility that extending the existing Space Assignment Agreements 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.

## **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)**

The Owner Controlled Insurance Program (OCIP) does not apply to the matters addressed by this Agenda Report as they are not capital improvement construction projects.

## **OPTIONS**

Staff has identified the following options for the Board's consideration:

- Authorize the extension of the Space Assignment Agreements that have been in effect for more than one year as of December 14, 2017; authorize the extension of Space Assignment Agreements that are likely to be in effect for more than one year as of December 31, 2018; and, authorize certain Space Assignment Agreements to continue with security deposits of less than three months' rent as described herein. This is the recommended action.

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<sup>[4]</sup> [www.envirostor.dtsc.ca.gov/regulators/deliverable\\_documents/4891050040/Howard%20Terminal%20Land%20Use%20Covenant.pdf](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](http://www.envirostor.dtsc.ca.gov/regulators/deliverable_documents/8129270255/Howard%20Terminal%20Land%20Use%20Covenant%20Amendment.pdf)

<sup>[5]</sup> [www.envirostor.dtsc.ca.gov/regulators/deliverable\\_documents/4540135025/LUC.Port.Final.Execu.recorded.pdf](http://www.envirostor.dtsc.ca.gov/regulators/deliverable_documents/4540135025/LUC.Port.Final.Execu.recorded.pdf)

- Do not authorize the extension of the Space Assignment Agreements that have been in effect for more than one year as of December 14, 2017; and do not authorize the extension of Space Assignment Agreements that are likely to be in effect for more than one year as of December 31, 2018.
- Authorize other terms, including but not limited to waiver of security deposit requirements, for the Space Assignment Agreements that have been in effect for more than one year as of December 14, 2017, and for the Space Assignment Agreements that are likely to be in effect for more than one year as of December 31, 2018.

### **RECOMMENDATION**

Staff recommends that the Board authorize the Executive Director to extend the Space Assignment Agreements that have been in effect for more than one year as of December 14, 2017; extend the Space Assignment Agreements that are likely to be in effect for more than one year as of December 31, 2018; and, allow certain agreements to continue with security deposits of less than three months' rent as described herein.