

**BOARD OF PORT COMMISSIONERS  
CITY OF OAKLAND**

12/14/17  
ITEM #: 2.2  
DC/IT  
dwc  
MA

**ORDINANCE APPROVING AND AUTHORIZING THE EXECUTIVE  
DIRECTOR TO AMEND THE LICENSE AND CONCESSION AGREEMENT  
WITH CALIFORNIA GENERATOR SERVICE CORPORATION TO  
EXPAND INTO 7719 OAKPORT STREET, OAKLAND, CALIFORNIA  
AND TO INCREASE MONTHLY RENT BY \$4,125.00.**

**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 December 14, 2017 (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; 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 finds and determines as follows:

A. In May 17, 2017, the Port approved a License and Concession Agreement ("L&C") with California Generator Service Corporation ("CGS") to occupy and use the buildings and yard areas associated with Port property at 7723, 7721, and 7717 Oakport Street. Prior to that date, CGS occupied approximately 4,800 square feet of building space and approximately 9,000 square feet of yard area located at 7723 Oakport Street, Oakland, California (the "Premises") since 2010; and

B. A neighboring suite of Port-owned space located 7719 Oakport Street was recently vacated, and CGS submitted an offer to the Port to further expand its operations into 7719 Oakport Street; and

C. Port staff have negotiated and recommend an amendment to CGS's current L&C to allow CGS to expand its current premises under the following terms:

- i. Expansion Premises: 7719 Oakport Street and related yard area;
- ii. Term: Concurrent with CGS's existing L&C with one option to extend the term for an additional five years at fair market rental value but in no event less than 3% over the existing rent in effect at the time the current term expires;
- iii. Additional Monthly Rent: \$4,125.00/month (with 3% annual increases thereafter) for those portions of the Premises at 7719 Oakport;
- iv. Additional Performance Deposit: An amount equal to 3 Months' Rent, as adjusted pursuant to the L&C; and
- v. Tenant Improvements: Within the first 12 months from the effective date of the amendment, CGS shall install security gates and cameras around the entire premises to secure the premises at CGS's sole cost and expense.

D. The terms set forth in Section C above exceed the current Target Rental Rents approved by the Board for such space and will provide an option to extend the term of both CGS's existing tenancy spaces (7723, 7721, and 7717 Oakport Street) as well as the new 7719 Oakport Street space for an additional five years beyond the current term expiration date of 2022.

E. The Board further finds and determines that the proposed expansion of CGS's premises to include 7719 Oakport Street is categorically exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Section 15301 of the CEQA Guidelines which exempts the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The additional 5,050 sq. ft. of combined office/showroom and warehouse space and 4,050 sq. ft. of yard area are consistent with existing operations and are categorically exempt from CEQA.

F. Section 706 of the City Charter gives to the Board the complete and exclusive power and duty for and on behalf of the City to make provisions for the needs of commerce, shipping, and navigation of the Port and to promote the development, construction, and operation of all water front properties including piers, wharves, sea walls, docks, and other improvements.

G. The proposed amendment to CGS's L&C to expand into 7719 Oakport Street will enable the Port to accommodate the growth and expansion needs of an existing tenant in good standing and secure a revenue stream from the entire building for a longer term; and

H. The proposed amendment is consistent with the Port's duty to use and manage Port property in trust for the State of California (the "Tidelands Trust"), and the proposed private use of Port property pursuant to the proposed amendment will not interfere with the Tidelands Trust.

**Section 3.** The Board hereby authorizes the Executive Director or his designee to execute the proposed amendment to the License and Concession Agreement with CGS and to make minor amendments to the amendment to the L&C, as described in the Agenda Report, subject to approval as to form and legality by the Port Attorney.

**Section 4.** 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.

\_\_\_\_\_  
**President.**

**Attest:** \_\_\_\_\_  
**Secretary.**

**Approved as to form and legality:**

\_\_\_\_\_  
**Port Attorney**