

## AGENDA REPORT

**Ordinance:** Authorize the Executive Director to Execute a Lease Amendment with GSC Logistics, Inc. to Extend the Term of the Lease Through June 30, 2023; Increase Rent Effective September 1, 2018; and Modify Various Other Terms, Resulting in Annual Rent Ranging From \$1.45 Million to \$1.68 Million; and Authorize Approximately \$85,000 of Operating Expense for Certain Deferred Maintenance **(Maritime)**

**MEETING DATE:** 6/28/2018

**AMOUNT:** Average of \$1.57 million annually (FY 2019 through FY 2023)  
Revenue

Approximately \$85,000, one-time expense (FY 2018 through FY 2019)  
Operating Expense

**PARTIES INVOLVED:** GSC Logistics, Inc., Oakland, CA  
Scott Taylor, President and CEO

**SUBMITTED BY:** John C. Driscoll, Director of Maritime

**APPROVED BY:** J. Christopher Lytle, Executive Director

**ACTION TYPE:** Ordinance

### **EXECUTIVE SUMMARY**

GSC Logistics, Inc. (GSC) currently leases and operates a transload facility at 555 Maritime Street in the Port's Maritime Area. The current lease expires on August 31, 2018. Port staff and GSC have negotiated an approximate 5-year extension to the lease term, through June 30, 2023, as well as modifications to other terms. Staff seeks the Board's approval to execute an amendment to the lease with GSC.

### **BACKGROUND**

GSC Logistics, Inc. (GSC) is a Port tenant located at 555 Maritime Street in the Port's Maritime Area (Seaport). GSC leases a warehouse and yard space from the Port, operating a transload facility and yard on about 16 acres (the Premises). A site map is attached as Exhibit A. The Port and GSC first entered into a lease agreement in 2008; the lease was subsequently

amended in 2013, 2014, and 2016 (the Lease). GSC currently pays \$103,771.33 per month in fixed rent.

In September 2017, GSC and Port staff began negotiations to amend the Lease to extend the term approximately five years. During the negotiations, GSC and Port staff also reached agreement on revisions to various other terms, including but not limited to rent.

## **ANALYSIS**

Exhibit B summarizes the terms agreed upon by the parties. Highlights include the following:

- The proposed Lease amendment would be the Fourth Amendment, with an Effective Date of September 1, 2018.
- The term would be September 1, 2018 through June 30, 2023.
- The Premises would be reduced by 11,500 square feet (0.2640 acres), resulting in a revised leasehold area of 679,703 square feet (15.6038 acres).
- Starting September 1, 2018, Fixed Monthly Rent would increase to \$124,451, escalating 3% annually. Variable rent provisions, which have never been triggered because activity thresholds were never met, will be removed from the Lease.
- Conditional Negotiating Opportunity beginning on January 1, 2023 should another Port tenant decline its exclusive negotiating right for the Premises.
- The current 5% limit on Domestic Cargo would be calculated by tonnage to more effectively reconcile the mix of containerized and non-containerized cargo at the Premises.
- GSC remains responsible to maintain the Premises, including pavement. Furthermore, GSC would be required to make certain necessary pavement repairs no later than October 31, 2018, at an estimated cost of \$230,000. The Port would reimburse GSC 30% of the pavement crack and slurry seal cost component of the repairs, up to a maximum of \$35,000, on a one-time basis.
- Port staff has agreed to replace two storm drain outfalls at an approximate cost of \$50,000.
- GSC is required to undertake certain environmental initiatives to promote, in particular, improvements to air quality. Staff notes that GSC is currently demonstration testing a zero-emission battery electric drayage truck at the Premises. The Port's standard environmental exhibit, inclusive of updated air quality provisions, is included in the proposed Lease amendment

## **BUDGET & STAFFING**

The proposed Lease amendment with GSC will result in estimated revenues during the extended term as detailed below (current FY18 revenues are provided for comparison). These revenues were included in the FY 2018-19 Operating Budget, which will soon be presented to the Board for consideration.

**Table 1. Current and Future Annual Rent**

	FY 17-18	FY 18-19	FY 19-20	FY 20-21	FY 21-22	FY 22-23	TOTAL (FY19-FY23)
Rent	\$1,241,207	\$1,452,057	\$1,538,214	\$1,584,361	\$1,631,892	\$1,680,848	\$7,877,372

Related to the proposed amendment, Port staff has agreed to (1) replace two storm drain outfalls at an approximate cost of \$50,000, and (2) reimburse GSC up to \$35,000 for certain pavement maintenance. These operating expenses have been included in the FY 2017-18 and FY 2018-19 operating expense budgets, respectively.

The proposed action does not have any staffing impact.

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

The action to enter into a Lease amendment with GSC 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 amendments and lease-related agreements exceeds the thresholds required for coverage under the MAPLA, the provisions of MAPLA will apply to that work.

## **STRATEGIC PLAN**

The action described herein would help the Port achieve the following goals and objectives in the Port's Strategic Business Plan (2018-2022).

<https://www.portofoakland.com/wp-content/uploads/Port-of-Oakland-Strategic-Plan.pdf>

Goal: Grow Net Revenue

Goal: Modernize and Maintain Infrastructure

Goal: Care for Our Environment

## **LIVING WAGE**

Based on the Lease amendment and information provided by the Agenda Report, living wage requirements may apply to these agreements because the agreements are for a value greater than \$50,000. The condition of the tenants employing 21 or more employees must also be met for the tenants, and, will be required to certify that should living wage obligations become

applicable, tenants shall comply with the Living Wage Regulations. In addition, future construction work under these agreements will be subject to prevailing wage requirements.

### **SUSTAINABILITY**

GSC has not proposed any development in the leased area. However, the proposed Lease amendment incorporates the updated “Environmental Responsibilities” Exhibit, which requires GSC to adhere to any Maritime Air Quality Improvement (MAQIP) 2020 and Beyond Plan requirements including but not limited to, 1) providing annual equipment and operational data for emissions inventories, 2) meeting with Port staff annually to evaluate feasibility of using zero-emissions equipment, and 3) participate in pilot projects of new zero-emission equipment.

Staff notes that GSC is currently demonstrating a Build Your Dreams (BYD) plug-in battery electric drayage truck and charging infrastructure at its facility. If the demonstration proves successful, GSC has an option within its grant agreement with Bay Area Air Quality Management District (BAAQMD) for additional battery electric drayage trucks to supplement their operation.

### **ENVIRONMENTAL**

The proposal to authorize the Executive Director to enter into a Lease amendment with GSC for its facility at 555 Maritime Street was reviewed in accordance with the requirements of the California Environmental Quality Act (“CEQA”) and the Port CEQA Guidelines. The proposed lease is categorically exempt from 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.

### **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)**

This action is not subject to the Port’s Owner Controlled Insurance Program (OCIP) as it is not a capital improvement construction project.

## **OPTIONS**

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

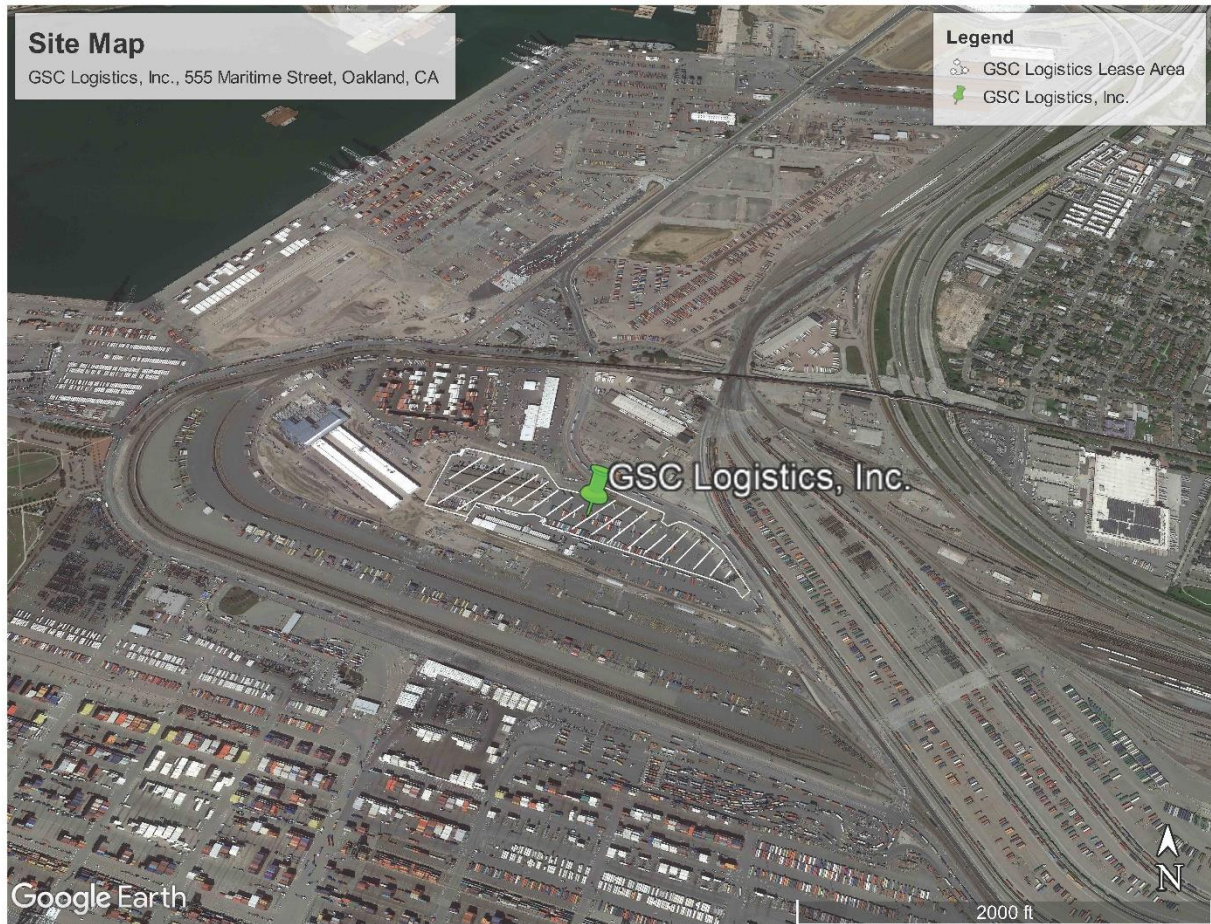
1. Authorize a Lease amendment with GSC Logistics, Inc., as described herein. This is the recommended option.
2. Authorize a Lease amendment with GSC Logistics, Inc., under different terms than those outlined in this Agenda Report.
3. Do not authorize the Lease amendment with GSC Logistics, Inc., and direct Staff on next steps. Under this option, the Lease would terminate on August 31, 2018, by which date GSC would have to vacate the Premises or hold over with the Port's written approval.

## **RECOMMENDATION**

Staff recommends that the Board authorize (a) the Executive Director to execute a Fourth Amendment to the Lease with GSC Logistics, Inc., extending the term through June 30, 2023; increasing rent effective September 1, 2018; and modifying various other terms, resulting in annual rent ranging from \$1.45 million to \$1.68 million; and (b) the expenditure of approximately \$85,000 for certain deferred maintenance, all as described herein.

## Exhibit A

### GSC Logistics, Inc. Premises



## Exhibit B

### Summary of Proposed Key Terms GSC Logistics, Inc.

	Description
<b>Effective Date</b>	<ul style="list-style-type: none"><li>September 1, 2018</li></ul>
<b>Rent</b>	<ul style="list-style-type: none"><li>Starting on September 1, 2018, the Fixed Monthly Rent is \$124,451, subject to rate escalations</li><li>Removal of Movement Overage Payments (variable rent)</li></ul>
<b>Rate Escalations; Contract Year</b>	<ul style="list-style-type: none"><li>The Fixed Monthly Rent increases by 3% annually on July 1 of each Contract Year</li><li>The Contract Year is defined as the 12-month period beginning on July 1 of a calendar year and ending on June 30 of the immediately succeeding calendar year</li><li>Contract Year beginning on the Effective Date is Contract Year 11, which will uniquely start on 09/01/18 and end on 06/30/19</li></ul>
<b>Premises</b>	<ul style="list-style-type: none"><li>The Port and GSC jointly agreed to reduce the lease area by 11,500 square feet (0.2640 acres) for a revised leasehold of 679,703 square feet (15.6038 acres)</li></ul>
<b>Lease Term and Conditional Negotiating Opportunity</b>	<ul style="list-style-type: none"><li>September 1, 2018 through June 30, 2023</li><li>Conditional Negotiating Opportunity beginning on January 1, 2023 should another Port tenant decline its exclusive negotiating right for the Premises</li></ul>
<b>Maintenance</b>	<ul style="list-style-type: none"><li>GSC remains responsible to maintain existing facility and pavement within Premises</li><li>Port agrees to replace storm drain outfalls at two (2) locations at its sole cost</li><li>By October 31, 2018, GSC must make all necessary pavement repairs within Area B as identified in GSC Pavement Survey dated February 26, 2018 (and revised on April 13, 2018). Port to reimburse GSC for the 30% of the actual costs to crack and slurry seal pavement, up to a maximum of \$35,000</li><li>Port has step-in rights to perform all necessary pavement repairs as described above if repairs have not been completed by October 31, 2018</li></ul>
<b>Domestic Cargo</b>	<ul style="list-style-type: none"><li>No more than 5% of cargo, now measured as tonnage, passing through the Premises during any Contract Year shall be Domestic Cargo</li></ul>



<b>Security Deposit</b>	<ul style="list-style-type: none"> <li>• In accordance with Port Administrative Policy No. 509, GSC shall deposit with the Port, keep, and maintain during the entire Term a deposit in the sum of three (3) months Fixed Monthly Rent</li> <li>• Deposit shall be evidenced by cash, certificate of deposit payable to the Port, irrevocable letter of credit, or similar instrument acceptable by the Port</li> </ul>
<b>Delinquency Charge</b>	<ul style="list-style-type: none"> <li>• If unpaid, Fixed Monthly Rent will become delinquent if the Port does not receive it on or before the tenth (10th) day of each month</li> </ul>
<b>Air Quality</b>	<ul style="list-style-type: none"> <li>• The “Environmental Responsibilities” Exhibit has been updated to include updated Air Quality requirements for GSC. The new provisions require GSC to comply with current and future Federal and State laws. GSC shall also adhere to current and future Port requirements including the Maritime Air Quality Improvement Plan (MAQIP). Lastly, GSC is committed to use best efforts to apply for grants to reduce emissions from its equipment, work with the Port to test new technologies to enhance efficiency and emission reduction, and continue to work closely with the Port to inventory emissions from existing equipment and develop strategies for low to zero emission implementation</li> <li>• GSC is currently testing a zero-emission battery electric drayage truck</li> </ul>