

## AGENDA REPORT

**Ordinance:** Approval of an Extension to a Temporary Rental Agreement with Pacific Gas & Electric Company Through October 31, 2019 for Construction Staging on the Premises Located at Livingston Street and Embarcadero Road at a Monthly Rental Rate of \$6,153 **(CRE)**

**MEETING DATE:** 11/29/2018

**AMOUNT:** \$61,530  
Revenue

**PARTIES INVOLVED:** Pacific Gas & Electric Company

**SUBMITTED BY:** Pamela Kershaw, Director of Commercial Real Estate

**APPROVED BY:** Danny Wan, Acting Executive Director

**ACTION TYPE:** Ordinance

### **EXECUTIVE SUMMARY**

The subject of this Agenda Report is a request for authorization to approve an extension to an existing Temporary Rental Agreement with Pacific Gas & Electric Company to allow continued use of a vacant lot for construction staging and equipment storage.

### **BACKGROUND**

The Port owns property located at the corner of Livingston Street and Embarcadero Road, consisting of 25,396 square feet of rocky land ("Premises"). The Premises are leased to and occupied by Pacific Gas & Electric Company ("Tenant") through December 31, 2018 under a Temporary Rental Agreement ("Agreement"), for storing water storage containers, pipe materials, and construction equipment in conjunction with a city-wide natural gas pipeline replacement project. The Tenant would like to occupy the Premises for an extended period through October 31, 2019. A site plan and map indicating the location of the Premises is attached as Exhibit A to this report.

### **ANALYSIS**

Under the current Agreement, Tenant pays \$6,016.31 monthly. In order to continue their pipeline replacement project, the Tenant has requested approval to continue using the Premises as a staging area for their construction materials. Staff proposes to extend this tenancy with an extension of the Agreement at the target rental rate of \$6,153 subject to all other standard provisions of the form Temporary Rental Agreement. Per the City of Oakland

Charter, approval by the Board of Port Commissioners is required for any Agreement exceeding one (1) year in term.

Staff believes that the continued occupancy of this space by the Tenant will help to deter vandalism of the property, is an appropriate and beneficial use of this existing asset, and that the rental rate is consistent with the Port adopted Target Rental Rates. Furthermore, this tenancy will enable the Port to receive revenue from this property and provide the Tenant with a staging area for their critical city-wide pipeline replacement project. The key terms and conditions proposed for this amendment are summarized below:

Parties	Port and Pacific Gas & Electric Company
Premises	Vacant lot at the corner of Livingston Street and Embarcadero Road
Term	January 1, 2019 to October 31, 2019
Rent	\$6,153 per month
Security Deposit	\$18,459, or three (3) times the monthly rent
Maintenance	Tenant is responsible for all maintenance on the Premises
Port Obligations	No Port maintenance responsibilities
Use of Premises	Construction staging area

Based on the analysis stated above, staff recommends approval of the proposed Temporary Rental Agreement.

### **BUDGET & STAFFING**

The proposed Temporary Rental Agreement will result in \$36,918 of unbudgeted revenue for FY2019. The proposed action does not have any staffing impact as this tenancy agreement is currently managed by existing Commercial Real Estate Division staff.

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

The work performed under this Agreement is in the Commercial Real Estate area and is not within the scope of the Port of Oakland Maritime and Aviation Project Labor Agreement (MAPLA). The provisions of the MAPLA do not apply to this 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: Objective 1: Maximize the use of existing assets.
- Goal B: Objective 1: Retain existing customers and tenants.

## **LIVING WAGE**

Living wage requirements, in accordance with the Port's Rules and Regulations for the Implementation and Enforcement of the Port of Oakland Living Wage Requirements (the "Living Wage Regulations"), do not apply to this matter because tenancies outside of the Aviation and Maritime areas with entities that do not principally provide aviation or maritime services are excluded from the Living Wage Regulations.

## **SUSTAINABILITY**

The tenant has not proposed any development for the leased area. If the tenant decides to develop the site in the future, the tenant must comply with the 2000 Sustainability Policy and complete the Sustainability Opportunities Assessment Form.

## **ENVIRONMENTAL**

California Environmental Quality Act (CEQA) Determination: The action to extend the existing Temporary Rental Agreement with Pacific Gas & Electric (PG&E) for PG&E to continue using the premises for the purpose of a staging area for their construction materials has been determined to be categorically exempt from requirements of the CEQA Guidelines pursuant to Section 15301, Existing Facilities, 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. No changes to the premises or use are proposed.

## **GENERAL PLAN**

The Premises appear to conform to the policies of the General Plan. The Premises are within City of Oakland planning jurisdiction, and they would make an official finding as part of any zoning approvals necessary for continuation of the proposed use.

## **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**

- Approve the proposed extension of the Temporary Rental Agreement with Pacific Gas & Electric Company, subject to the terms and conditions described within this Agenda Report. This is the recommended option.
- Do not approve the proposed extension of the Temporary Rental Agreement with Pacific Gas & Electric Company, which will result in a vacancy within the CRE portfolio; or
- Approve the proposed extension of the Temporary Rental Agreement with Pacific Gas & Electric Company, but subject to different terms and conditions than those contained within this Agenda Report, which depending on the nature of those terms and conditions, may require further negotiation with the Tenant.

## **RECOMMENDATION**

It is recommended that the Board approve the proposed extension to the Temporary Rental Agreement with Pacific Gas & Electric Company for the property located at the corner of Livingston Street and Embarcadero Road through October 31, 2019, at a rental rate of \$6,153 per month and subject to all other standard terms of the form Temporary Rental Agreement as further described in this Agenda Report, and authorize the Executive Director or his designee to approve and execute such agreements and such additional documents as may be necessary to consummate the transaction contemplated in this Agenda Report, subject to approval by the Port Attorney as to form and legality. It is further recommended that the subject approval be valid for no longer than 30 days from the date of Board approval, and that if the subject extension is not fully executed by that date such approval shall be null and void unless further extended at the sole and absolute discretion of the Executive Director or his designee.

**Attachment: Exhibit A – Site Map of Livingston and Embarcadero**