

AGENDA REPORT

Ordinance: Authorization to Extend Space Assignment Agreements That Have Been in Effect for More Than One Year as of November 29, 2018; Authorization to Extend Space Assignment Agreements That Are Likely To Be in Effect for More Than One Year as of December 31, 2018; Ratification of a Lighting/Utility Assessment Applicable to Certain Existing Space Assignment Agreements in the Roundhouse Property and the Outer Harbor Terminal; and Approval of Such Lighting/Utility Assessment on an Interim Basis for Certain Existing and Future Space Assignment Agreements in the Maritime Area; All Resulting in Annual Revenue of Approximately \$13.7 Million **(Maritime)**

MEETING DATE: 11/29/2018

AMOUNT: \$13.7 million (FY 2018-19)
Revenue

PARTIES INVOLVED: Various, as listed in Agenda Report

SUBMITTED BY: John C. Driscoll, Director of Maritime

APPROVED BY: Danny Wan, Acting Executive Director

ACTION TYPE: Ordinance

EXECUTIVE SUMMARY

Staff requests the Board's authorization to take various actions related to short-term property agreements (referred to herein as Space Assignment Agreements) with certain tenants in the Port's Maritime Area (Seaport): approve Space Assignment Agreements that have been in effect longer than one year, or are expected to be in effect longer than one year; ratify a lighting/utility assessment for certain Space Assignment Agreements at the Seaport; and approve the continuation of such lighting/utility assessment on an interim basis, all as described herein.

BACKGROUND

The Maritime Division has 71 Space Assignment Agreements, which generate approximately \$13.7 million in annual revenues. Space Assignment Agreements are cancelable by either party upon 30 days' notice. Tariff 2-A authorizes Port staff to enter into these agreements without further Board approval in accordance with the rates, charges, and conditions set forth in Tariff 2-A as Space Assignments are initially viewed as short-term agreements (duration of less than one year). Once these tenants are in place or anticipated to be in place for more than one year, the Board must approve the continuation of the tenancy. Of the 71 space assignments, 59 have been in place for more than one year, and 12 are anticipated to be in

place for more than one year. On average, the tenure of these tenants is currently 5.2 years; some tenants have been under tenancy for more than 10 years.

Space Assignment Agreements are at rates and subject to conditions that have been adopted by the Board and incorporated by ordinance into Tariff 2-A, and are for Maritime tenants who are using Port property in the Seaport on a short-term, month-to-month basis. In many cases, the Port does not have immediate plans to use the subject properties, so these agreements allow the Port to earn revenue from the properties while keeping the land available for future development.

The types of uses authorized under Space Assignment 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 59 Space Assignments that have been in effect for more than one year, covering 54 unique tenants. These agreements are listed in the table below.

Table 1. Space assignment agreements in place longer than one year as of 11/29/2018

Company	Agreement	Type of Use	Current Lease Start	Monthly Rent
A.V. Trucking Company	1334MMJ5	Trucking operations	9/13/2012	\$8,756.00
Academy of Truck Driving	1182MMJ1	Parking of training vehicles	8/1/2006	\$651.92
Academy of Truck Driving	1185MMJ1	Office and training space	8/1/2006	\$1,478.99
Amnav Maritime Services	1172MMJ1	Office and training space	7/1/2006	\$7,834.00
Ariana Hot Dog	1368MMJ3	Food vendor	10/15/2013	\$160.00
Best Bay Trucking	1389MMJ4	Trucking operations	9/29/2014	\$17,194.00
California Freight Sales	1318MMJ1	Trucking operations	7/1/2006	\$9,509.50
CMI Transportation	1476MMJ5	Trucking operations	12/1/2017	\$31,606.00
Conglobal Industries	1398MMJ5	Container operations	5/1/2015	\$157,114.23
CPX Carrier	1138MMJ1	Office space and trucking operations	5/1/2017	\$1,336.61
CPX Carrier	1246MMJ1	Office space and trucking operations	5/1/2017	\$9,509.50
CTS Tires and Recycling	1363MMJ1	Truck repairs	9/25/2013	\$5,789.68

Digital Realty Trust	1280MMJ3	Storage and auto parking	7/13/2010	\$2,741.70
El Patron Lonchera	1229MMJ3	Food vendor	6/1/2008	\$160.00
Fast Way Xpress	1458MMJ1	Trucking operations	4/15/2017	\$12,066.75
Fred's Truck Service	1404MMJ1	Truck repairs	7/1/2015	\$4,644.50
Fundis Company	OHQ932	Truck scale	12/1/2000	\$4,926.00
Fundis Company	1245MMJ1	Trucking operations	2/1/2009	\$13,532.00
Intermodal Logistics	1370MMJ1	Trucking operations	11/1/2013	\$7,274.52
K&W Trucking Group	1427MMJ4	Trucking operations	3/1/2016	\$7,461.30
La Chole	MHQ1031	Food vendor	9/1/2003	\$160.00
Legner and Sons	1173MMJ1	Office and trucking operations	7/1/2006	\$10,335.56
Maritech Equipment	1089MMJ1	Office space and repairs	7/1/2006	\$4,145.33
Matson	1481MMJ4	Vessel parts storage	10/16/2017	\$1,233.80
MC&PL Tire	1105MMJ5	Truck tire repair	4/1/2005	\$421.88
Metritech	1268MMJ1	RFID center	12/17/2009	\$125.40
North Central Truck Supply	1311MMJ1	Truck parts	8/1/2011	\$7,642.50
North Central Truck Supply	1464MMJ1	Truck parking	7/1/2017	\$2,840.85
Oakland Port Trucking	1426MMJ4	Trucking operations	12/1/2016	\$11,639.77
Occupational Testing	1371MMJ1	Trucker physicals	1/1/2014	\$1,470.00
Olivia's Catering	1475MMJ1	Food vendor	10/1/2017	\$160.00
Pacific Maritime Association	1378MMJ\$	ILWU training	2/24/2014	\$43,342.20
Pena's Trucking Service	1351MMJ1	Trucking operations	4/15/2013	\$9,509.50
Pinnacle Ag Services	1449MMJ1	Trans-loading operations	11/1/2016	\$29,098.08
PRO-SE Services	1452MMJ3	Trucking operations	2/1/2017	\$3,483.27
R&G Express	1352MMJ1	Trucking operations	4/1/2013	\$5,016.00
Ranokx Logistics	1400MMJ4	Trucking operations	4/1/2015	\$10,884.72
Rick's Portable Welding	1375MMJ1	Equipment repair	1/15/2014	\$1,196.52

SAI Trucking	1438MMJ1	Trucking operations	8/22/2016	\$14,981.12
Schnitzer Steel	1231MMJ3	Steel export operations	1/16/2011	\$4,462.56
Schnitzer Steel	1284MMJ3	Steel export operations	4/1/2011	\$1,687.50
Sea Road Transportation	1469MMJ1	Trucking operations	7/1/2017	\$12,138.72
Sea-Logix	1433MMJ1	Container operations	4/30/2016	\$5,273.50
Shippers Transport Express	1399MMJ5	Container operations	5/1/2015	\$271,156.64
Sincere Hardware	1241MMJ4	Product storage	12/1/2008	\$2,447.70
Singh Express	1437MMJ1	Trucking operations	8/1/2016	\$22,387.50
S-Line Transportation	1393MMJ4	Trucking operations	12/3/2014	\$28,215.00
Speed Intermodal	1465MMJ1	Trucking operations	5/1/2018	\$10,666.40
Star J Trucking	1440MMJ1	Trucking operations	8/1/2016	\$12,142.90
Sunny Trucking	1450MMJ1	Trucking operations	11/1/2016	\$7,386.06
Tacos Los Cuates	1253MMJ4	Food vendor	6/1/2009	\$160.00
Tran Kim Muoi	1333MMJ2	Food vendor	6/1/2012	\$160.00
Unicold	1388MMJ5	Container storage	6/1/2012	\$2,167.11
United Bridge Transport	1472MMJ1	Trucking operations	9/1/2017	\$13,167.00
Villegas Diesel Tech	1418MMJ1	Truck repairs	2/1/2016	\$3,372.03
Westar Marine Services	1165MMJ1	Water taxi services	4/1/2006	\$696.50
Wings Century Trucking	1307MMJ1	Trucking operations	7/1/2011	\$20,028.47
World Transportation	1447MMJ1	Trucking operations	9/1/2016	\$7,419.50
XPO Drayage	1379MMJ4	Trucking operations	3/1/2014	\$31,294.90

Note: "Current Lease Start" shown in Table 1 is for the agreement currently in effect between the Port and Tenant. Prior agreements with the same Tenant are not reflected.

The following 12 tenants have Space Assignment Agreements that have been in effect less than one year but are likely to have been in effect for more than one year prior to the next scheduled request to extend Space Assignments.

Table 2. Space assignment agreements expected to be longer than one year as of 12/31/2018

Company	Agreement	Type of Use	Lease Start	Monthly Rent
Ann Simmons	1502MMJ1	Food vendor	9/25/2018	\$320.00
AAA Express	1487MMJ1	Trucking operations	4/1/2018	\$6,270.00
Bay Area Rapid Transit	1478MMJ1	Construction laydown	5/21/2018	\$9,104.04
Bridgeport Transportation	1504MMJ4	Trucking operations	10/13/2018	\$28,014.57
Calport & Rail	1501MMJ1	Trucking operations	9/1/2018	\$10,884.72
DEMAG	1492MMJ1	Transtainer storage	7/1/2018	\$2,050.10
DNH Carriers	1485MMJ1	Trucking operations	1/8/2018	\$5,188.84
GST Transport	1494MMJ4	Trucking operations	7/20/2018	\$22,741.26
Isaac Logistics	1489MMJ4	Trucking operations	5/1/2018	\$4,079.50
Longdo Trucking	1499MMJ1	Trucking operations	5/1/2018	\$7,461.30
PG&E	1490MMJ4	Construction laydown	5/21/2018	\$8,668.44
TESLA	1496MMJ4	Cargo staging	8/28/2018	\$116,107.97

Most of these tenants provide services directly to or in support of maritime activity at the marine terminals and rail yards located in the Maritime Area, with the exception of Digital Realty Trust and Sincere Hardware, who are tenants 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 limited accessibility. Staff recommends the continuation of the afore-listed agreements because they are critical to continuity of Maritime Division revenue and contribute to overall Seaport operations.

Security Deposits

One Space Assignment Agreement (Shippers Transport Express) has a security deposit requirement of less than three (3) months' rent, authorized by the Executive Director when the Space Assignment Agreement was first executed. As part of the Board's approval of the continuation of the Agreement, Staff proposes the security deposit amount remain unchanged. The tenant has leased land from the Port in various locations pursuant to multiple agreements for about 25 years, with a solid track record of prompt payments. However, it is important to note that Staff intends to request the Board's authorization to execute a long-term lease with Shippers Transport Express in early 2019. The terms of the draft lease agreement require a security deposit equal to three (3) months' rent. All other

Space Assignment tenants are still subject to the Port's three-month security deposit requirement.

Lighting/Utility Assessment

For certain tenancies at the Roundhouse Property and Outer Harbor Terminal, utility (primarily electricity) costs are common, and the Port pays the utility bill to the utility provider (e.g. PG&E for electricity). The Port charges a Lighting/Utility Assessment to recover these costs, which Port staff have determined to date to be \$0.01/square foot/month. Of the \$13.7 million of annual revenue generated by Space Assignment Agreements, the Lighting/Utility Assessment accounts for approximately \$0.2 million of the total revenue. The Port routinely evaluates its utility costs and rates, and this amount is subject to change. Further, Staff is planning to include this Lighting/Utility Assessment in a future amendment to either Tariff 2-A or another Board-approved document. In the interim, Staff requests the Board's ratification of this Lighting/Utility Assessment on existing Space Assignment Agreements located at the Roundhouse Property and Outer Harbor Terminal. Staff also requests the Board's approval of the Lighting/Utility Assessment on a go-forward basis for Space Assignment Agreements at the Roundhouse Property, the Outer Harbor Terminal and other locations within the Port's Maritime Area that are served by PG&E for electricity until such time either Tariff 2-A or another Board-approved rate schedule is adopted to establish a means to recover such costs.

BUDGET & STAFFING

The Space Assignment Agreements covered in this Agenda Report represent monthly revenue of approximately \$1.1 million and annual revenue of about \$13.7 million. This revenue is consistent with revenue from short-term agreements included in the FY 2018-19 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 extension of Space Assignment Agreements and the ratification of a Lighting/Utility Assessment for existing and future Space Assignment Agreements at Howard Terminal, the Roundhouse Property, and Outer Harbor Terminal do 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 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 Business Plan (2018-2022).

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

Goal: Grow Net Revenues

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"), will apply to these lease agreements if the tenant employs 21 or more employees working on Port-related work and the tenancy agreement is greater than \$50,000.

SUSTAINABILITY

The matters in this agenda report do not approve a project that is subject to the Port's Sustainability Opportunities Assessment (SOA). However, the SOA is now included in the Port's form of Space Assignment Agreements and Staff is exploring sustainability opportunities (e.g. implementation of electric trucks, etc.) with existing and new tenants as grant opportunities and various environmental-related pilot programs arise.

ENVIRONMENTAL

CEQA Determination: The proposed extension of Space Assignment Agreements, the ratification of a Lighting/Utility Assessment at the Roundhouse Property and Outer Harbor Terminal, and the approval of a Lighting/Utility Assessment on certain existing and future Space Assignment Agreements located in the Maritime Area 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 most existing tenants to continue their current business operations, including a lighting/utility assessment, meets the criteria for this exemption.

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

- The former Oakland Army Base (OAB), which is under oversight of the State of California's Department of Toxic Substances Control (DTSC) (EnviroStor site 01970016) due to a variety of historic contaminants in the 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.¹

¹ 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

- 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.² 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.³ 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 for 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.⁴
- 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.⁵

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 physical change in the environment, and therefore extending Space Assignment Agreements

² www.envirostar.dtsc.ca.gov/regulators/deliverable_documents/4256138443/land%20use%20covenant%20%5Brecorded%202-22-01%5D.pdf

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

⁴ www.envirostar.dtsc.ca.gov/regulators/deliverable_documents/4891050040/howard%20terminal%20land%20use%20covenant.pdf

⁵ www.envirostor.dtsc.ca.gov/regulators/deliverable_documents/4540135025/luc.port.final.execu.recorded.pdf

with tenants on these properties, including a Lighting/Utility Assessment, 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)

This 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 November 29, 2018 through December 31, 2019; authorize the extension of Space Assignment Agreements that are likely to be in effect for more than one year as of December 31, 2018 through December 31, 2019; ratify a Lighting/Utility Assessment applicable to certain existing Space Assignment Agreements at the Roundhouse Property and the Outer Harbor Terminal; and approve the continued application of the Lighting/Utility Assessment on an interim basis for certain existing and future Space Assignment Agreements, all as described herein. This is the recommended action.
- Do not authorize the requested actions.
- Authorize other terms, as may be directed by the Board.

RECOMMENDATION

Staff recommends that the Board authorize the extension of the Space Assignment Agreements that have been in effect for more than one year as of November 29, 2018 through December 31, 2019; authorize the extension of Space Assignment Agreements that are likely to be in effect for more than one year as of November 29, 2018 through December 31, 2019; Ratify a Lighting/Utility Assessment applicable to Certain Existing Space Assignment Agreements at the Roundhouse Property and the Outer Harbor Terminal; and approve the continued application of the Lighting/Utility Assessment on an interim basis for certain existing and future Space Assignment Agreements in the Port's Maritime Area, all as described herein.