

PORT ORDINANCE NO.4507

ORDINANCE AUTHORIZING AND APPROVING THE EXTENSION OF SPACE ASSIGNMENT AGREEMENTS THAT HAVE BEEN IN EFFECT FOR MORE THAN ONE YEAR AS OF NOVEMBER 29, 2018, THE EXTENSION OF CERTAIN SPACE ASSIGNMENT AGREEMENTS THAT ARE LIKELY TO BE IN EFFECT FOR MORE THAN ONE YEAR AS OF DECEMBER 31, 2018, AND 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.

WHEREAS, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the proposed extension of Space Assignment Agreements in the Port of Oakland's ("Port") Maritime area as set forth in the Agenda Report for Agenda Item 6.4, dated November 29, 2018 (the "Agenda Report") and related agenda materials, has received the expert testimony of 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. The proposed (i) extension of Space Assignment Agreements with Maritime area tenants, (ii) ratification of a lighting/utility assessment at the Roundhouse Property and the Outer Harbor areas, and (iii) the ratification and approval of a lighting/utility assessment on certain existing and future Space Assignment Agreements located in the Maritime area are 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.

B. Some of the Space Assignment Agreement premises are under regulatory agency oversight with deed restrictions on the property:

- The former Oakland Army Base ("OAB") is under the oversight of the California Environmental Protection Agency, Department of Toxic Substances Control ("DTSC") (EnviroStor site 01970016) due to a variety of historical 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.¹ Furthermore, interim leasing of property at the former OAB was described and analyzed 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 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
- The former Union Pacific Railroad Roundhouse property 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

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

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

compliance with a Site Management Plan, and requires surface covers, among other conditions.³

- A portion of the Howard Terminal property is under the oversight of 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 or soil disturbance without DTSC review and approval of a health and safety plan, among other conditions.⁴
- The former McGuire property 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. It can be seen 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, extending the Space Assignment Agreements with tenants on these properties, including a Lighting/Utility Assessment, is not subject to CEQA.

SECTION 3. The Board approves the extensions set forth in the Agenda Report and authorizes the Executive Director to extend (i) those Space Assignment Agreements set forth in Table 1 in Attachment A to this Ordinance that have been in effect for more than one (1) year as of

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

November 29, 2018 through December 31, 2019, and (ii) those Space Assignment Agreements set forth in Table 2 of Attachment A to this Ordinance that are likely to be in effect for more than one year as of December 31, 2018, through December 31, 2019. The Board authorizes and approves extension of said agreements on a month-to-month basis under the same terms and conditions and at such rates as are set forth in Port Tariff 2-A, as the same may be amended from time to time by the Board. Each of the month-to-month Space Assignment Agreements herein authorized shall be subject to further Board review and approval in the event that any such Space Assignment Agreements continue for more than one (1) year.

SECTION 4. The Board further approves and ratifies the proposed Lighting/Utility Assessment at \$0.01/square foot/month as described in the Agenda Report to recover certain utility costs that the Port pays in the Roundhouse Property and the Outer Harbor Terminal areas and approves the continued application of the Lighting/Utility Assessment on an interim basis for certain existing and future Space Assignment Agreements in the Maritime area as set forth in the Agenda Report.

SECTION 5. 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. This ordinance approves and authorizes the execution of agreements in accordance with the terms of this ordinance. Unless and until a separate written agreement is duly executed on behalf of the Board as authorized by this ordinance, is signed and approved as to form and legality by the Port Attorney, and is delivered to other contracting party, there shall be no valid or effective agreement.

The Board of Port Commissioners, Oakland, California, November 29, 2018. Passed to print for one day by the following vote: Ayes: Commissioners Colbruno, Cluver, Lee, Martinez, Story and President Butner - 6 Noes: 0.

Daria Edgerly

Secretary of the Board

ATTACHMENT A
APPROVAL OF EXTENSION OF SPACE ASSIGNMENTS

Table 1: Space Assignment Agreements That Have Been In Effect for More than One Year as Of November 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.

Table 2: Space Assignment Agreements In Effect but Likely to be in Effect for More than One Year as of December 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