

## AGENDA REPORT

**Ordinance:** Authorization to Extend Space Assignment Agreements That Have Been in Effect for More Than One Year as of October 24, 2019 and Authorization to Extend Space Assignment Agreements That Are Likely To Be in Effect for More Than One Year as of December 31, 2019 Resulting in Annual Revenue of Approximately \$8.6 Million (Maritime)

**MEETING DATE:** 10/24/2019

**AMOUNT:** \$8.6 million (FY2019-20)  
Revenue

**PARTIES INVOLVED:** Various, as listed herein

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

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

**ACTION TYPE:** Ordinance

### **EXECUTIVE SUMMARY**

Staff requests the Board's authorization to approve Space Assignment Agreements in the Port's Maritime Area (Seaport) that have been in effect longer than one year, or are expected to be in effect longer than one year, as described herein.

### **BACKGROUND**

The Maritime Division has 72 Space Assignment Agreements, which generate approximately \$8.6 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 because Space Assignments are initially viewed as short-term agreements (duration of less than one year, typically month-to-month). 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 72 space assignments, 64 have been in place for more than one year, and 8 are anticipated to be in place for more than one year prior to the next scheduled request to extend the space assignments.

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. 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.

## **ANALYSIS**

### Length of Agreements

There are 64 Space Assignment Agreements that have been in effect for more than one year, covering 59 unique tenants. These agreements are listed below.

**Table 1. Space assignment agreements in place longer than one year as of 10/24/2019**

| <b>Company</b>            | <b>Agreement</b> | <b>Type of Use</b>           | <b>Current Lease Start Date</b> | <b>Monthly Rent</b> |
|---------------------------|------------------|------------------------------|---------------------------------|---------------------|
| AAA Express               | 1487MMJ1         | Trucking operations          | 4/1/2018                        | \$6,690.00          |
| Academy of Truck Driving  | 1182MMJ1         | Parking of training vehicles | 8/1/2006                        | \$697.79            |
| Academy of Truck Driving  | 1185MMJ1         | Office and training space    | 8/1/2006                        | \$1,580.60          |
| Amnav Maritime Services   | 1172MMJ1         | Tug boat operations          | 7/1/2006                        | \$8,655.08          |
| Ariana Hot Dog            | 1368MMJ3         | Food vendor                  | 10/15/2013                      | \$171.00            |
| Bay Area Rapid Transit    | 1478MMJ1         | Construction laydown         | 5/21/2018                       | \$9,713.28          |
| Bay City Express          | 1511MMJ1         | Trucking operations          | 12/1/2018                       | \$11,820.75         |
| Best Bay Trucking         | 1389MMJ4         | Trucking operations          | 9/29/2014                       | \$27,942.35         |
| Bridgeport Transportation | 1504MMJ4         | Trucking operations          | 10/13/2018                      | \$29,891.14         |
| California Freight Sales  | 1318MMJ1         | Trucking operations          | 7/1/2006                        | \$10,146.50         |
| Calport and Rail          | 1501MMJ1         | Trucking operations          | 9/1/2018                        | \$11,613.84         |
| CMI Transportation        | 1476MMJ5         | Trucking operations          | 12/1/2017                       | \$33,825.29         |
| CPX Carrier               | 1138MMJ1         | Office space/trucking ops    | 5/1/2017                        | \$1,429.26          |
| CPX Carrier               | 1246MMJ1         | Office space/trucking ops    | 5/1/2017                        | \$10,146.50         |
| CTS Tires and Recycling   | 1363MMJ1         | Truck repairs                | 9/25/2013                       | \$6,192.66          |
| Digital Realty Trust      | 1280MMJ3         | Storage and auto parking     | 7/13/2010                       | \$2,930.40          |
| DNH Carriers              | 1485MMJ1         | Trucking operations          | 1/8/2018                        | \$5,536.42          |
| El Patron Lonchera        | 1229MMJ3         | Food vendor                  | 6/1/2008                        | \$171.00            |
| Fast Way Xpress           | 1458MMJ1         | Office space/trucking ops    | 4/15/2017                       | \$12,515.30         |
| Fred's Truck Service      | 1404MMJ1         | Truck repairs                | 7/1/2015                        | \$4,981.50          |
| Fundis Company            | OHQ932           | Truck scale                  | 12/1/2000                       | \$5,112.00          |
| Fundis Company            | 1245MMJ1         | Trucking operations          | 2/1/2009                        | \$14,484.00         |
| GST Transport             | 1494MMJ4         | Trucking operations          | 7/20/2018                       | \$25,434.94         |

|                              |          |                           |            |             |
|------------------------------|----------|---------------------------|------------|-------------|
| Impact Transportation        | 1500MMJ1 | Fumigation                | 12/1/2018  | \$540.00    |
| Isaac Logistics              | 1489MMJ4 | Trucking operations       | 5/1/2018   | \$6,302.00  |
| K&W Trucking Group           | 1427MMJ4 | Trucking operations       | 3/1/2016   | \$10,146.50 |
| La Chole                     | MHQ1031  | Food vendor               | 9/1/2003   | \$171.00    |
| Legner and Sons              | 1173MMJ1 | Office space/trucking ops | 7/1/2006   | \$10,642.05 |
| Longdo Trucking              | 1499MMJ1 | Trucking operations       | 9/1/2018   | \$7,961.10  |
| Maritech Equipment           | 1089MMJ1 | Office space and repairs  | 1/1/2005   | \$4,452.20  |
| MC&PL Tire                   | 1105MMJ5 | Truck tire repair         | 4/1/2005   | \$451.56    |
| Metritech                    | 1268MMJ1 | RFID center               | 12/17/2009 | \$133.80    |
| North Central Truck Supply   | 1311MMJ1 | Truck parts               | 8/1/2011   | \$7,987.50  |
| North Central Truck Supply   | 1464MMJ1 | Truck parking             | 7/1/2017   | \$3,037.50  |
| Occupational Testing         | 1371MMJ1 | Trucker physicals         | 1/1/2014   | \$1,580.00  |
| Olivia's Catering            | 1475MMJ1 | Food vendor               | 10/1/2017  | \$171.00    |
| Pacific Maritime Association | 1378MMJ4 | ILWU training             | 2/24/2014  | \$59,677.20 |
| Pena's Trucking Service      | 1351MMJ1 | Trucking operations       | 4/15/2013  | \$10,146.50 |
| PG&E                         | 1490MMJ4 | Construction laydown      | 6/20/2018  | \$10,338.28 |
| Pinnacle Ag Services         | 1449MMJ1 | Trans-loading operations  | 11/1/2016  | \$31,188.96 |
| PRO-SE Services              | 1452MMJ3 | Trucking operations       | 2/1/2017   | \$3,715.49  |
| R&G Express                  | 1352MMJ1 | Trucking operations       | 4/1/2013   | \$5,352.00  |
| Ranokx Logistics             | 1400MMJ4 | Trucking operations       | 4/1/2015   | \$11,613.84 |
| Rick's Portable Welding      | 1375MMJ1 | Equipment repair          | 1/15/2014  | \$1,288.56  |
| SAI Trucking                 | 1438MMJ1 | Trucking operations       | 8/22/2016  | \$15,984.64 |
| Schnitzer Steel              | 1231MMJ3 | Steel export operations   | 1/16/2011  | \$4,760.06  |
| Schnitzer Steel              | 1284MMJ3 | Steel export operations   | 4/1/2011   | \$1,800.00  |
| Sea Road Transportation      | 1469MMJ1 | Trucking operations       | 7/1/2017   | \$12,951.84 |
| Sea-Logix                    | 1433MMJ1 | Container operations      | 4/30/2016  | \$7,261.00  |
| Sincere Hardware             | 1241MMJ4 | Product storage           | 12/1/2008  | \$2,619.90  |
| Singh Express                | 1437MMJ1 | Trucking operations       | 8/1/2016   | \$25,087.50 |
| S-Line Transportation        | 1393MMJ4 | Trucking operations       | 12/3/2014  | \$33,550.35 |
| Star J Trucking              | 1440MMJ1 | Trucking operations       | 8/1/2016   | \$12,956.30 |
| Sunny Trucking               | 1450MMJ1 | Trucking operations       | 11/1/2016  | \$11,214.44 |
| Tacos Los Cuates             | 1253MMJ4 | Food vendor               | 6/1/2009   | \$171.00    |

|                         |          |                     |           |             |
|-------------------------|----------|---------------------|-----------|-------------|
| Tran Kim Muoi           | 1333MMJ2 | Food vendor         | 6/1/2012  | \$171.00    |
| Unicold                 | 1388MMJ5 | Container storage   | 6/1/2012  | \$2,319.57  |
| United Bridge Transport | 1472MMJ1 | Trucking operations | 9/1/2017  | \$14,049.00 |
| Villegas Diesel Tech    | 1418MMJ1 | Truck repairs       | 2/1/2016  | \$3,616.80  |
| Westar Marine Services  | 1165MMJ1 | Water taxi services | 4/1/2006  | \$745.50    |
| Wings Century Trucking  | 1307MMJ1 | Trucking operations | 7/1/2011  | \$21,370.09 |
| World Transportation    | 1447MMJ1 | Trucking operations | 9/1/2016  | \$7,916.50  |
| XPO Drayage             | 1379MMJ4 | Trucking operations | 3/1/2014  | \$34,923.82 |
| Xtreme Intermodal       | 1508MMJ1 | Trucking operations | 12/3/2018 | \$7,961.10  |

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 8 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 in place longer than one year as of 12/31/2019**

| Company                | Agreement | Type of Use              | Current Lease Start Date | Monthly Rent |
|------------------------|-----------|--------------------------|--------------------------|--------------|
| AV Trucking            | 1527MMJ4  | Trucking operations      | 6/17/2019                | \$9,031.50   |
| E&H 24-Hour Road Svcs  | 1502MMJ1  | Truck repairs            | 8/1/2019                 | \$2,230.00   |
| Harley Marine Services | 1493MMJ4  | Tug and barge operations | 5/1/2019                 | \$3,500.00   |
| Hercules Trucking      | 1512MMJ4  | Trucking operations      | 1/3/2019                 | \$11,952.80  |
| Intermodal Logistics   | 1526MMJ1  | Trucking operations      | 8/1/2019                 | \$11,820.86  |
| Oakland Port Trans     | 1523MMJ4  | Trucking operations      | 5/13/2019                | \$17,030.35  |
| Seaport Intermodal     | 1513MMJ4  | Trucking                 | 2/15/2019                | \$7,961.10   |
| Shimmick               | 1517MMJ1  | Construction laydown     | 5/15/2019                | \$4,602.05   |

Most of these tenants provide services directly to or in support of maritime activity at the marine terminals and rail yards located in the Seaport, with 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 headquarters 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 agreements listed in Tables 1 and 2 because they are important to continuity of Maritime Division revenue and/or contribute to overall Seaport operations.

### **BUDGET & STAFFING**

The Space Assignment Agreements covered in this Agenda Report represent monthly revenue of approximately \$0.7 million and annual revenue of about \$8.6 million. This revenue is consistent with revenue from short-term agreements included in the FY 2019-20 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 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 leases 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 Agreement and Staff is exploring sustainability opportunities

(e.g. implementation of electric trucks, etc.) with existing tenants and new tenants as grant opportunities and various environmental-related pilot programs arise.

## **ENVIRONMENTAL**

California Environmental Quality Act (CEQA) Determination: The proposed extension of Space Assignment Agreements is categorically exempt from CEQA pursuant to the Port CEQA guidelines, Section 15301(p) which exempts renewals, extensions or other 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.

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 restriction 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.<sup>1</sup>
- 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.<sup>2</sup> 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,

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<sup>1</sup> [www.envirostor.dtsc.ca.gov/regulators/deliverable\\_documents/7657270133/land%20use%20covenant.pdf](http://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](http://www.envirostor.dtsc.ca.gov/regulators/deliverable_documents/1262481510/P181921%20land%20use%20covenant%20%5breCORDED%206-29-07%5d.pdf)

<sup>2</sup> [www.envirostor.dtsc.ca.gov/regulators/deliverable\\_documents/4256138443/land%20use%20covenant%20%5breCORDED%202-22-01%5d.pdf](http://www.envirostor.dtsc.ca.gov/regulators/deliverable_documents/4256138443/land%20use%20covenant%20%5breCORDED%202-22-01%5d.pdf)

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

- A portion of Howard Terminal property that is under the oversight of the DTSC (EnviroStor site 0144006) 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 asphalt cover, groundwater extraction and excavation or soil disturbance without DTSC review and approval of a health and safety plan, among other conditions.<sup>4</sup>
- The former McGuire property that is under oversight of the DTSC (EnviroStor site 01280092) due to volatile organic compounds in shallow groundwater, remaining from a former use 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.<sup>5</sup>

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 with tenants on these properties 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 action is not subject to the Port's Owner Controlled Insurance Program (OCIP) as it is not a capital improvement construction project.

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<sup>3</sup>[http://geotracker.waterboards.ca.gov/regulators/deliverable\\_documents/7523511588/UPRR%20roundhouse%20deed%restriction.pdf](http://geotracker.waterboards.ca.gov/regulators/deliverable_documents/7523511588/UPRR%20roundhouse%20deed%restriction.pdf)

<sup>4</sup>[www.envirostor.dtsc.ca.gov/regulators/deliverable\\_documents/4891050040/howard%20terminal%20land%20use%20covenant.pdf](http://www.envirostor.dtsc.ca.gov/regulators/deliverable_documents/4891050040/howard%20terminal%20land%20use%20covenant.pdf)

<sup>5</sup>[www.envirostor.dtsc.ca.gov/regulators/deliverable\\_documents/4540135025/luc.port.final.execu.recorded.pdf](http://www.envirostor.dtsc.ca.gov/regulators/deliverable_documents/4540135025/luc.port.final.execu.recorded.pdf)

## **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 October 24, 2019 through December 31, 2020, and authorize the extension of Space Assignment Agreements that are likely to be in effect for more than one year as of December 31, 2019 through December 31, 2020, 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 October 24, 2019 through December 31, 2020 and authorize the extension of Space Assignment Agreements that are likely to be in effect for more than one year as of December 31, 2019 through December 31, 2020, as described herein.