

Authorize Executive Director to enter into a one-year lease extension with Shippers Transport Express Inc.

Shippers Transport Express (STE) has a lease with the Port for 37.8 acres that is on a month to month holdover after their lease expired July 31, 2013 in the maritime support area. Staff seeks authorization from the board to execute a one-year lease extension with STE in order to develop an RFP for all or a portion of the property for the development of new cold storage facilities. Additional information will be provided in a supplemental report.

BOARD MTG. DATE: 10/10/13

AGENDA REPORT

TITLE: One-year lease extension with Shippers Transport Express, Inc.

AMOUNT: \$2,428,803 in FY 2013-14

PARTIES INVOLVED:

Corporate Name/Principal	Location
Shippers Transport Express, Inc.	Oakland, CA

TYPE OF ACTION: Ordinance

SUBMITTED BY: Jean Banker, Director of Maritime (Acting)

APPROVED BY: Chris Lytle, Executive Director

SUMMARY

Shippers Transport Express (STE) has a lease with the Port for approximately 37.83 acres in the Maritime Support Center area (the Site). The lease expired on July 31, 2013 and STE continues to occupy the Site on a month to month basis. Staff seeks authorization to execute a one-year lease extension with STE through July 31, 2014.

BACKGROUND

STE has been leasing the Site since December 1, 2008 primarily for the purpose of temporary storage of full and empty containers as well as chassis storage. The Site has functioned as a satellite yard for the Oakland International Container Terminal (Berths 55-59). STE has needed less than half of the Site for its operations, so they leased the remainder to a sub-tenant, ConGlobal Industries, Inc., which also stores full and empty containers.

In recent months, as part of general business development activities, Port staff has received strong interest from various companies for the development of temperature controlled transload (cold storage) facilities in the maritime area. Cold storage facilities provide cold chain logistics solutions for customer worldwide. The ideal location in the maritime area for such facilities would be the Oakland Army Base (OAB) and/or the Maritime Support Center.

ANALYSIS

Staff believes that cold storage facilities present an opportunity to generate more revenue for the Port in the long term, both directly (i.e., rent) and indirectly (i.e., cargo throughput).

BOARD MTG. DATE: 10/10/13

Interest from potential companies in establishing a facility in the Port maritime area has been specific to the OAB property and, specifically, the Site. Additionally, Port staff understands that these companies have a desire to establish a facility move as soon as possible, rather than waiting a few more years until the OAB is more readily available.

While staff pursues opportunities to establish cold storage facility(ies) in the maritime area, staff recommends extending the lease with STE for the Site in order to maintain revenue. The proposed lease extension terms are as follows:

- One year lease extension commencing on August 1, 2013 and ending on July 31, 2014.
- Lease rate to remain unchanged from rate effective as of July 31, 2013, when the current lease expired (\$202,400.21 per month or \$2,428,803 per year).
- Should the Port decide to extend the lease beyond July 31, 2014, a notice of that intent will be sent to STE on May 1, 2014. If the Port gives such notice, the Port and STE will immediately enter into good faith negotiations on a lease extension until the expiration date of the lease. If the Port and STE can not reach an agreement by July 31, 2014, then the lease will expire on July 31, 2014.
- At the Port’s sole and absolute discretion, the Port may grant STE an additional 30 days beyond July 31, 2014 to surrender the Site to the Port. During this 30-day extension, STE will continue paying at the then-current rate.

The Port will return to the Board in the near future with more information about cold storage facilities and a potential RFP process.

STRATEGIC PLAN

Strategic Priority Area	Goal	Objective	How + When Implemented
Sustainable Economic and Business Development	Goal A: Create Sustainable Economic Growth For The Port And Beyond	1. Maximize the use of existing assets. 3. Increase revenue, job creation and small business growth.	By amending this lease and extending it by one year only, the Port is able to maintain revenue while pursuing new growth/revenue opportunities for existing maritime land/facilities.

BUDGET & FINANCIAL IMPACT

Revenue from the Site for the one-year extension period will be \$202,400.21 per month, or \$2,428,803 per year, which is unchanged from the lease that expired on July 31, 2013.

BOARD MTG. DATE: 10/10/13

This amount was included in the FY2013-14 Operating Budget. If the Port elects to retain STE beyond July 31, 2014, monthly revenue will be at an amount to be negotiated.

STAFFING IMPACT

The proposed action will have no impact on staffing.

SUSTAINABILITY

The proposed action does not directly provide opportunities for sustainability.

ENVIRONMENTAL

The proposed one-year lease extension with Shippers Transport Express Inc. was reviewed in accordance with the requirements of the California Environmental Quality Act (CEQA), and the Port CEQA Guidelines. The lease extension 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. Furthermore, the general rule in Section 15061(b)(3) of the CEQA Guidelines 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 lease for one year and for the same uses will result in a physical change in the environment, and therefore this action is not subject to CEQA.

Portions of the lease premises are on sites that are under oversight of the California Department of Toxic Substances Control (former Fleet and Industrial Supply Center Oakland ("FISCO")) and the Alameda County Department of Environmental Health (former Ringsby site). The Joint Intermodal Terminal ("JIT") Project Final Environmental Impact Report ("EIR"), adopted by the Board of Port Commissioners on June 15, 1999, and the second Addendum to the EIR, approved on August 7, 2001, evaluated the use of the JIT Phase 2 area for maritime-support activities consistent with the uses undertaken by STE, and provide sufficient environmental review of the this type of maritime services lease on the former FISCO property. Therefore, no further environmental review is required for the Board to approve the lease extension at this site.

MARITIME AND AVIATION PROJECT LABOR AGREEMENT (MAPLA)

Work undertaken by state, county, city or other governmental bodies is specifically excluded from the scope of the Port of Oakland Maritime and Aviation Project Labor Agreement (MAPLA) and the provisions of the MAPLA do not apply. The action to amend and extend the Lease with Shippers Transport Express, Inc. does not fall within the scope

BOARD MTG. DATE: 10/10/13

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 future tenant construction work under this Lease exceeds the thresholds required for coverage under the MAPLA, the provisions of MAPLA will apply when the Port Permits are requested for said future construction work.

OWNER CONTROLLED INSURANCE PROGRAM (OCIP)

The proposed action is not subject to the Port's Owner Controlled Insurance Program (OCIP)

GENERAL PLAN

This action does not meet the definition of "project" under the City of Oakland General Plan, and no conformity determination is required.

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

OPTIONS

1. Authorize a one-year lease extension for Shippers Transport Express, Inc.
2. Do not authorize a one-year lease extension for Shippers Transport Express, Inc.
3. Direct staff to execute an extension with different terms, or take alternative action.

RECOMMENDATION

Authorize with a one-year lease extension for Shippers Transport Express, Inc., as set forth herein.

REMAINING ACTION ITEMS Tab 6.2

BOARD MTG. DATE: 10/10/13

Exhibit A – Site Map



Item 6.2
DCLK
10/10/13
dwc

BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND

ORDINANCE APPROVING AND AUTHORIZING THE EXECUTIVE
DIRECTOR TO EXECUTE AN AMENDMENT TO THE LEASE WITH
SHIPPERS TRANSPORT EXPRESS, INC. TO EXTEND THE
TERM FOR ONE YEAR.

WHEREAS, the Board of Port Commissioners (the "Board") has reviewed and evaluated the Agenda Report for Agenda Item 6.2 dated October 10, 2013 (the "Agenda Report") and related agenda materials, has received the expert testimony of Port of Oakland ("Port") staff, and has provided opportunities for and taken public comment on the proposed one-year extension of the lease of approximately 37.83 acres in the Maritime Support Area with Shippers Transport Express, Inc. ("STE"); and

WHEREAS, the proposed one-year lease extension would be at the same lease rate that STE is currently paying (\$2,428,803 per year) and would expire on July 31, 2014, subject to the other terms and conditions described in the Agenda Report; now therefore

BE IT ORDAINED by the Board of Port Commissioners 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 that it is in the best interest of the Port to approve and authorize the Executive Director of the Port or his designee to execute the First Amendment to Lease with STE (the "First Amendment") at an annual lease rate of \$2,428,803, a term expiring on July 31, 2014 and in substantially the form of the First Amendment on file with the Secretary of the Board.

Section 3. The Board hereby finds and determines as follows:

A. That the proposed First Amendment to extend the lease with STE was reviewed in accordance with the requirements of the California Environmental Quality Act ("CEQA"), and the Port CEQA Guidelines. The lease extension 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. Furthermore, the general rule in Section 15061(b) (3) of

the CEQA Guidelines 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 lease for one year and for the same uses will result in a physical change in the environment, and therefore this action is not subject to CEQA.

B. Portions of the lease premises are on sites that are under oversight of the California Department of Toxic Substances Control (former Fleet and Industrial Supply Center Oakland ("FISCO") and the Alameda County Department of Environmental Health (former Ringsby site). The Joint Intermodal Terminal ("JIT") Project Final Environmental Impact Report ("EIR"), adopted by the Board on June 15, 1999, and the second Addendum to the EIR, approved on August 7, 2001, evaluated the use of the JIT Phase 2 area for maritime-support activities consistent with the uses undertaken by STE, and provide sufficient environmental review of this type of maritime services lease on the former FISCO property. Therefore, no further environmental review is required for the Board to approve the lease extension at this site.

Section 4. This ordinance approves and authorizes the execution of a lease extension in substantially the form of the First Amendment on file with the Secretary of the Board. Unless and until a separate written instrument is duly executed on behalf of the Board as authorized by this ordinance and is signed and approved as to form and legality by the Port Attorney, there shall be no valid or effective lease extension or amendment.

DRAFT

President.

Attest:

Secretary.

Approved as to form and legality:

Port Attorney