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OFFICE OF THE CITY CLERK  
OAKLAND

2016 DEC -1 PM 1:34 **AGENDA REPORT**

**TO:** Sabrina B. Landreth  
City Administrator

**FROM:** Mark Sawicki  
Director, EWD

**SUBJECT:** License Agreement for Use of  
Building L-118 at Oakland  
International Airport

**DATE:** November 29, 2016

City Administrator Approval

Date:

11/30/16

### **RECOMMENDATION**

**Staff Recommends That The City Council Adopt An Ordinance Authorizing The City Administrator, Without Returning To Council, To Negotiate And Execute An Amendment To A License And Concession Agreement With The Port Of Oakland For The City's Use Of Port Building L-118 At The Oakland Airport For Office Use And Maintenance Of City Helicopters: (1) Extending The Agreement By Five Years, With Five (5) One Year Options; And (2) Setting Rent At Sixteen Thousand Four Hundred Seventeen Dollars And Five Cents (\$16,417.05) Monthly, Such Rent To Be Offset By The Equivalent Value Of Services Provided By The Oakland Police Department At The Airport; And Making Certain California Environmental Quality Act Exemptions**

### **EXECUTIVE SUMMARY**

Since 2008, the Oakland Police Department (OPD) Air Support Unit has operated up to three helicopters from its current location at Building L-118 (the "Property") at Oakland International Airport. The current License Agreement with the Port of Oakland for use of the Property needs to be extended. Adoption of the proposed ordinance will allow OPD to continue its use of the Property under an amended License Agreement for an additional five years, with five one-year renewal options. OPD has been and will continue to provide in-kind services to the Port in lieu of rent payments. The in-kind services include the provision of vehicle patrols and airport perimeter aerial checks by OPD.

### **BACKGROUND / LEGISLATIVE HISTORY**

Resolution No. 81327 C.M.S. dated May 20, 2008, authorized the City Administrator to negotiate and execute a one year License Agreement with five one-year renewal options with the Port of Oakland for the use of the Property located for office use and for the operation, storage, and maintenance of City helicopters and reasonable related uses for an annual rental amount not to exceed \$1.00.

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In 2011, a second License and Concession Agreement was executed with the Port. Under this agreement the City was required to provide in-kind services in-lieu of rent equal to \$13,545.14 per month. This agreement expired on September 30, 2016. Accordingly, the agreement needs to be amended to extend the term and set the new rent to allow OPD to continue to occupy the space.

### **ANALYSIS AND POLICY ALTERNATIVES**

In 2008, OPD identified several sites that could be utilized for its helicopter operations including the Oakland Army Base, the Oakland Fire Department Training Center and the Corporation Yard. Each of the sites presented substantial development cost to OPD. Outdoor storage of OPD helicopters would leave the aircraft susceptible to corrosion, resulting in higher maintenance expense. OPD did not have funds available to build a new facility for the Air Support Unit and concluded that the best option for its helicopter operations was an existing hangar located at the Oakland Airport. This location could accommodate both the short and long term needs of the OPD Helicopter unit. The existing hangar at the Oakland International Airport allows the entire Airport Staff Unit to operate from one facility and provided shelter for the helicopters. This current location continues to be the most economically feasible and logistically beneficial. **Table 1** is a valuation breakdown of the space being rented by OPD:

**Table 1**

Space Type	Size or Area of	Monthly Rate	Monthly Rental Value
Shop	1,762s.f.	\$0.400	\$ 704.80
Office	1,907s.f.	\$0.750	\$ 1,430.25
Hangar	10,808s.f.	\$0.850	\$ 9,186.80
Storage	2,138s.f.	\$0.400	\$ 855.20
Apron	13,040s.f.	\$0.250	\$ 3,260.00
Parking (7 spaces)	2,450s.f.	\$0.400	\$ 980.00

**Total Premises: 31,105s.f. Total Monthly Rental Value: \$ 16,417.05**

Staff has conducted a fair market rent analysis which concluded that the rental value of the Property is within the market rent range for comparable local properties. During the analysis, staff also discovered that there were no vacancies on the market of properties deemed viable alternatives to which OPD could relocate at this time. Furthermore, if comparable vacant space were to become available, OPD does not have the funds required to relocate or pay for tenant improvements required for their operations.

OPD has been and will continue to provide in-kind services to the Port in lieu of paying rent. The in-kind services include the provision of vehicle patrols and airport perimeter aerial checks by OPD.

### **FISCAL IMPACT**

The costs of providing in-kind services at the Port of Oakland are equal to \$16,417.05 monthly. Said amount has been and will continue to be funded from the General Purpose Fund (1010) and Special Operation Org (107710).

### **PUBLIC OUTREACH / INTEREST**

Prior to the City Council's review of the item, the public will also receive information as required by the Oakland Sunshine Ordinance and the Brown Act. Lastly, the Port of Oakland has completed the public noticing requirements for the approval of this Amendment.

### **COORDINATION**

This report and the actions discussed have been coordinated with staff from the City Council offices, the City Administrator's Office, the City Attorney's Office, Environment Bureau, Economic Development Division, Controller's Bureau, and the Real Estate Services Division.

### **SUSTAINABLE OPPORTUNITIES**

***Economic:*** Maintaining this facility will save the City the expense of developing a custom facility for its helicopter operation. This site includes the storage, maintenance, and all related uses for the Air Support Unit and will result a continued efficient operation.

***Environmental:*** The proposed action does not provide any additional environmental benefits.

***Social Equity:*** Maintaining a viable Airport Support Unit will ensure that OPD continues to have a positive and direct impact in fighting crime, providing support to the Homeland Security operations, giving assistance to the Oakland Fire Department and the citizens of Oakland.

### **CEQA**

Council hereby finds and determines that the action is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) Guidelines under Section 15301 which exempts existing facilities that involves negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The use is consistent with the City's General Plan Land Use designation and with the zoning and other land use requirements. It is located within a commercially developed urban area. The property is located at the Oakland International Airport and is properly zoned for the intended helicopter use. No habit values have been identified for rare, threatened or endangered species. The continued use of the building will not result in any additional impacts pertaining to noise, traffic, air quality or water quality because the project will comply with standard City requirements and other standards

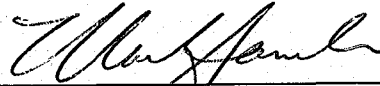
established by the Port of Oakland Airport Division. Finally, the subject Property is currently served and will continue to be served adequately by all required public utilities and services.

**ACTION REQUESTED OF THE CITY COUNCIL**

Staff Recommends That The City Council Adopt An Ordinance Authorizing The City Administrator, Without Returning To Council, To Negotiate And Execute An Amendment To A License And Concession Agreement With The Port Of Oakland For The City's Use Of Port Building L-118 At The Oakland Airport For Office Use And Maintenance Of City Helicopters: (1) Extending The Agreement By Five Years, With Five (5) One Year Options; And (2) Setting Rent At Sixteen Thousand Four Hundred Seventeen Dollars And Five Cents (\$16,417.05) Monthly, Such Rent To Be Offset By The Equivalent Value Of Services Provided By The Oakland Police Department At The Airport; And Making Certain California Environmental Quality Act Exemptions

For questions regarding this report, please contact James Golde, Manager, Real Estate Services Division at 510-238-6354.

Respectfully submitted,



MARK SAWICKI  
Director, Economic & Workforce  
Development

Reviewed by:  
James Golde, Real Estate Manager  
Real Estate Services Division

David Elzey  
Acting Captain of Police  
Support Operations Division, OPD

Prepared by:  
Anthony J. Reese, MBA, Real Estate Agent  
Real Estate Services Division

Attachment:  
A. Ordinance with License Amendment 1

Item: 10  
CED Committee  
December 6, 2016

FILED  
OFFICE OF THE CITY CLERK  
OAKLAND

OAKLAND CITY COUNCIL

*[Signature]*  
City Attorney

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ORDINANCE No. \_\_\_\_\_ C.M.S.

**ADOPT AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR, WITHOUT RETURNING TO COUNCIL, TO NEGOTIATE AND EXECUTE AN AMENDMENT TO A LICENSE AND CONCESSION AGREEMENT WITH THE PORT OF OAKLAND FOR THE CITY'S USE OF PORT BUILDING L-118 AT THE OAKLAND AIRPORT FOR OFFICE USE AND MAINTENANCE OF CITY HELICOPTERS: (1) EXTENDING THE AGREEMENT BY FIVE YEARS, WITH FIVE (5) ONE YEAR OPTIONS; AND (2) SETTING RENT AT SIXTEEN THOUSAND FOUR HUNDRED SEVENTEEN DOLLARS AND FIVE CENTS (\$16,417.05) MONTHLY, SUCH RENT TO BE OFFSET BY THE EQUIVALENT VALUE OF SERVICES PROVIDED BY THE OAKLAND POLICE DEPARTMENT AT THE AIRPORT; AND MAKING CERTAIN CALIFORNIA ENVIRONMENTAL QUALITY ACT EXEMPTIONS**

**WHEREAS**, in 2011, the City and the Port of Oakland ("Port") executed a License and Concession Agreement ("Agreement") under which: (1) the Oakland Police Department ("OPD") Air Support Unit used Building L-118 at Oakland International Airport (the "Property") for office use and for the operation, storage, and maintenance of City helicopters and reasonable related uses; and (2) the City was required to provide in-kind services in-lieu of rent equal to \$13,545.14 per month; such in-kind services at the airport consisting of OPD vehicle patrols and airport perimeter aerial checks; and

**WHEREAS**, the City and Port have agreed to amend the Agreement as set forth in the attached Amendment No. 1 ("Amendment") to: (1) extend the term of the Agreement by five years, and giving the City five (5) one-year options to further extend; and (2) setting rent at sixteen thousand four hundred seventeen dollars and five cents (\$16,417.05) monthly, such rent to be offset by the equivalent value of services provided by OPD at the airport; and

**WHEREAS**, the City determines that the costs of providing the in-kind services are equal to \$16,417.05 monthly, with said amount to be funded from the General Purpose Fund (1010) and Special Operation Org (107710); and

**WHEREAS**, Council hereby finds and determines that the action is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) Guidelines under Section 15301 which exempts existing facilities that involves negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The use is consistent with the City's General Plan Land Use designation and with the zoning and other land use requirements. It is located within a commercially developed urban area. The property is located at the Oakland International Airport and is properly zoned for the intended helicopter use. No habit values have been identified for rare

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threatened or endangered species. The continued use of the building will not result in any additional impacts pertaining to noise, traffic, air quality or water quality because the project will comply with standard City requirements and other standards established by the Port of Oakland Airport Division. Finally, the subject Property is currently served and will continue to be served adequately by all required public utilities and services;

**NOW THEREFORE THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:**

**Section 1.** The City Council finds and determines the foregoing recitals to be true and correct and hereby makes them a part of this Ordinance.

**Section 2.** Based upon the facts, data, analysis, and findings set forth in the Agenda Report for this item, the City Administrator is authorized to negotiate and execute the Amendment in substantially the form attached hereto.

**Section 3.** The costs of providing in-kind services at the Port of Oakland are equal to \$16,417.05 monthly, with such amount to be funded from the General Purpose Fund (1010) and Special Operation Org (107710).

**Section 4.** Council hereby finds and determines that the action is categorically exempt from the requirements of the California Environmental Quality Act (CEQA) Guidelines under Section 15301 which exempts existing facilities that involves negligible or no expansion of use beyond that existing at the time of the lead agency's determination. The use is consistent with the City's General Plan Land Use designation and with the zoning and other land use requirements. It is located within a commercially developed urban area. The property is located at the Oakland International Airport and is properly zoned for the intended helicopter use. No habit values have been identified for rare, threatened or endangered species. The continued use of the building will not result in any additional impacts pertaining to noise, traffic, air quality or water quality because the project will comply with standard City requirements and other standards established by the Port of Oakland Airport Division. Finally, the subject Property is currently served and will continue to be served adequately by all required public utilities and services

**Section 5.** The Amendment shall be reviewed and approved as to form and legality by the City Attorney's Office prior to execution by the City, and a copy shall be placed on file with the City Clerk.

**Section 6.** The City Administrator or designee is hereby authorized to file a notice of exemption with the Office of the Alameda County Recorder and to take any other action necessary consistent with this Ordinance and its basic purposes.

**Section 7.** The record before this Council relating to this Ordinance includes, without limitation, the following:

- A. All staff reports and other documentation and information produced by or on behalf of the City, including all notices relating to this Ordinance;
- B. All oral and written evidence received by City staff and the City Council before and during the consideration of this Ordinance; and
- C. All matters of common knowledge and all official enactments and acts of the City, such as (1) the General Plan; (2) the Oakland Municipal Code, including, without limitation, the City's real estate regulations; (3) the

Oakland Planning Code; (4) other applicable City policies and regulations; and (5) all applicable state and federal laws, rules and regulations.

**Section 8.** The custodians and locations of the documents or other materials which constitute the record of proceedings upon with the City Council's decision is based are respectively (a) the Real Estate Services Division, 250 Frank Ogawa Plaza, 4th Floor, Oakland, CA and (b) Planning and Building Department, 250 Frank Ogawa Plaza, 3rd, Floor, Oakland, CA; and (c) the Office of the City Clerk, 1 Frank Ogawa Plaza, 1st Floor, Oakland, CA.

**Section 9.** The Ordinance shall be in full force and effect immediately upon its passage as provided by Section 216 of the City Charter if adopted by at least six members of Council, or upon the seventh day after final adoption if adopted by fewer votes.

IN COUNCIL, OAKLAND, CALIFORNIA, \_\_\_\_\_

**PASSED BY THE FOLLOWING VOTE:**

AYES- BROOKS, CAMPBELL WASHINGTON, GALLO, GUILLEN, KALB, KAPLAN, REID, and PRESIDENT GIBSON MCELHANEY

NOES-

ABSENT-

ABSTENTION-

ATTEST: \_\_\_\_\_

\_\_\_\_\_

Council  
California

LaTonda Simmons  
City Clerk and Clerk of the  
of the City of Oakland,

DATE OF ATTESTATION: \_\_\_\_\_

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# Exhibit A

## AMENDMENT NO. 1 TO LICENSE AND CONCESSION AGREEMENT WITH THE CITY OF OAKLAND

**THIS AMENDMENT NO. 1 TO LICENSE AND CONCESSION AGREEMENT** dated \_\_\_\_\_, 2016 ("Amendment No. 1") for the continued storage, operation and maintenance of three (3) helicopters, office use and incidental uses reasonably related thereto of the licensed premises at the Oakland International Airport between the **CITY OF OAKLAND**, a municipal corporation, acting by and through its Board of Port Commissioners ("the Port"), and the **City of Oakland, a municipal corporation** ("the Licensee").

**WHEREAS**, the Port and Licensee are parties to that certain License and Concession Agreement dated October 1, 2011 (the "Agreement"); and

**WHEREAS**, the Port and Licensee desire to enter into this Amendment No. 1 to amend the terms of the Agreement; and

**WHEREAS**, the Board of Port Commissioners adopted Ordinance No. 4385 approving this Amendment No. 1 according to the terms further described in the Agenda Report for Agenda Item 6.1, dated July 14, 2016.

**NOW, THEREFORE**, Port and Licensee hereby agree as follows:

1. Exhibit "C" (Term of License and Concession Agreement) of the Agreement is hereby amended by adding the following to the end of such Exhibit:

"The term of this License and Concession Agreement shall be extended from October 1, 2016 to midnight **September 30, 2021**.

The Port hereby grants to Licensee five additional sequential one-year options to extend the term of this Agreement upon each of the terms and conditions set forth in (1)-(3) above, with notice dates set forth in the chart below:

<u>Additional Option</u>	<u>Last Date Notice Must Be Received by Port</u>	<u>Commencement of Option Term</u>	<u>Expiration of Option Term</u>
Option One	July 1, 2021	October 1, 2021	September 30, 2022
Option Two	July 1, 2022	October 1, 2022	September 30, 2023
Option Three	July 1, 2023	October 1, 2023	September 30, 2024
Option Four	July 1, 2024	October 1, 2024	September 30, 2025
Option Five	July 1, 2025	October 1, 2025	September 30, 2026

2. Exhibit "J", Section 17 of the Agreement is hereby deleted in its entirety and shall be replaced with the following:

**Annual Analysis and Potential Rent Offset Adjustment of Vehicle Patrols and Airport Perimeter Aerial Checks:** The number, frequency and duration of vehicle patrols and Airport perimeter aerial checks shall be subject to annual (upward or downward) adjustment by the Director of Aviation of the Port due to changes in the following factors on which said vehicle patrols and Airport perimeter aerial checks are based:

- Fair Market Rental Value (FMRV) of the premises currently valued at \$16,417.05 per month\*
- Hourly charge rate for officer currently valued at \$106.00 per hour;
- Hourly charge rate for helicopter use currently valued at \$741.00 per hour;
- Value of helicopter incidentals\*\* currently valued at \$7,410.00 annually
- Days per week of vehicle patrol activity currently set at four (4) days per week
- Monthly charge rate for marine patrol valued at \$424.00/hour (assuming staffed by two officers)

\* Estimated Fair Market Rental Value breakdown is as follows:

Space Type	Size or Area of Space	Monthly Rate	Monthly Rental Value
Shop	1,762s.f.	\$0.400	\$ 704.80
Office	1,907s.f.	\$0.750	\$ 1,430.25
Hangar	10,808s.f.	\$0.850	\$ 9,186.80
Storage	2,138s.f.	\$0.400	\$ 855.20
Apron	13,040s.f.	\$0.250	\$ 3,260.00
Parking (7 spaces)	2,450s.f.	\$0.400	\$ 980.00

**Total Premises: 31,105s.f.**

**Total Value of Monthly Rents: \$ 16,417.05**

**\*\* Incidentals include: Insurance, Flir and downlink camera, moving map, aviation radios and MD re-currency training.**

3. Except as expressly amended by this Amendment No. 1, all terms and conditions of the Agreement shall continue in full force and effect and are hereby ratified, confirmed and approved.

4. This Amendment No. 1 shall become effective on October 1, 2016 (the "Effective Date"), provided it has been executed by the parties and approved by the Port Attorney as to form and legality.

**IN WITNESS WHEREOF**, the parties hereto thereunto duly authorized, have executed this Amendment No. 1 as of the day and year specified above.

**CITY OF OAKLAND, a municipal corporation, acting by and through its Board of Port Commissioners**

By: \_\_\_\_\_  
Executive Director

**LICENSEE:  
CITY OF OAKLAND, a municipal corporation**

By: \_\_\_\_\_  
City Administrator

**THIS AGREEMENT SHALL NOT BE VALID OR EFFECTIVE FOR ANY PURPOSE UNLESS AND UNTIL IT IS SIGNED BY THE PORT ATTORNEY**

Approved as to form and legality this \_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Port Attorney  
Port Ordinance No. 4385  
P.A. # \_\_\_\_\_



**NOTICE AND DIGEST**

**AN ORDINANCE AUTHORIZING THE CITY ADMINISTRATOR, WITHOUT RETURNING TO COUNCIL, TO NEGOTIATE AND EXECUTE AN AMENDMENT TO A LICENSE AND CONCESSION AGREEMENT WITH THE PORT OF OAKLAND FOR THE CITY'S USE OF PORT BUILDING L-118 AT THE OAKLAND AIRPORT FOR OFFICE USE AND MAINTENANCE OF CITY HELICOPTERS: (1) EXTENDING THE AGREEMENT BY FIVE YEARS, WITH FIVE (5) ONE YEAR OPTIONS; AND (2) SETTING RENT AT SIXTEEN THOUSAND FOUR HUNDRED SEVENTEEN DOLLARS AND FIVE CENTS (\$16,417.05) MONTHLY, SUCH RENT TO BE OFFSET BY THE EQUIVALENT VALUE OF SERVICES PROVIDED BY THE OAKLAND POLICE DEPARTMENT AT THE AIRPORT; AND MAKING CERTAIN CALIFORNIA ENVIRONMENTAL QUALITY ACT EXEMPTIONS**

Adoption of the proposed ordinance will authorize the City Administrator to negotiate and execute an Amendment No. 1 to License and Concession Agreement and related documents for Real Property Located at Port Building L-118, North Airport, Oakland International Airport, for office use and for the operation, storage and maintenance of city helicopters, and reasonable related uses in exchange for in-kind services provided by OPD equal to \$16,417.05 monthly. The ordinance includes findings under the California Environmental Quality Act for this action.

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