

## AGENDA REPORT

**Ordinance:** Approval of *Space/Use Permit* with Sky Chefs, Inc. at Oakland International Airport. **(Aviation)**

**MEETING DATE:** 5/28/2015

**AMOUNT:** Approximately \$14,500 (Monthly)  
Revenue

**PARTIES INVOLVED:** Sky Chefs, Inc., Irving, Texas  
John Hayes, Director Corporate Real Estate

**SUBMITTED BY:** Deborah Ale-Flint, Director of Aviation

**APPROVED BY:** J. Christopher Lytle, Executive Director

**ACTION TYPE:** Ordinance

### **EXECUTIVE SUMMARY**

This action would approve the terms and conditions of, and authorize the Executive Director to execute, a *Space/Use Permit* (“SUP”) with Sky Chefs, Inc. (“Sky Chefs”) which will allow Sky Chefs to continue providing aircraft catering services at Oakland International Airport (“OAK”) and to occupy warehouse space within building M111.

### **BACKGROUND**

In 2008, after nearly 40 years of occupancy, Sky Chefs, Inc. terminated its tenancy and ceased operating an in-flight kitchen in Port Building M111 located at 50 Neil Armstrong Way at OAK’s South Field. The premises were constructed by Sky Chefs in 1969 as a single tenant industrial kitchen specifically for the preparation of in-flight meals. Sky Chefs occupied the entire building, which comprises 27,600± square feet of leasable area under the terms of its *Lease* dated September 3, 1968 (“*Lease*”). The *Lease*, as amended, expired on December 31, 2002 and Sky Chefs continued to occupy the premises under a month-to-month tenancy through December 31, 2008. Sky Chefs continues to service its airline clients at OAK from an off-airport location through a *Right of Entry and Indemnity Agreement* (“*ROE*”) and pays 10% of its on-airport gross receipts to the Port, resulting in approximately \$150,000 of revenue during FY2014-15.

The premises have been extensively marketed since being vacated by Sky Chefs in 2008 with the intent of identifying a single occupant for the entire building, most likely from the food

processing industry. Those efforts resulted in a lease with Revolution Foods for a portion of the building from April 1, 2012 through June 30, 2014. Sky Chefs now intends to lease 4,000 square feet of the building for warehouse and staging use.

## **ANALYSIS**

Sky Chefs services its OAK airline clients through the *ROE* which has an expiration date of June 30, 2018. The *ROE* provides for a minimum monthly fee of \$500, or 10% of gross revenues, whichever is greater. These are standard terms at OAK for airline catering companies. Sky Chefs took occupancy of a 4,000 square foot portion of Building M111 on December 15, 2014 and, as the *Right of Entry and Indemnity Agreement* is no longer used as a standard Port agreement, the *SUP* has been prepared incorporating the terms of the *ROE* as well as the terms under which Sky Chefs occupies space in Building M111. The general terms of the *SUP* are:

<b>Permittee:</b>	Sky Chefs, Inc.
<b>Term:</b>	Three (3) year primary term plus two (2), one (1) year options, cancellable upon 120 day notice by either party, commencing December 14, 2014. The latest date the <i>SUP</i> would expire is December 14, 2019.
<b>Use:</b>	Provide aircraft catering services, warehousing, distribution, and related administrative activities.
<b>Space Rent:</b>	\$2,000 per month.
<b>Commercial Fee:</b>	\$500 per month, or 10% of gross revenue, whichever is greater.
<b>Performance Deposit:</b>	\$50,000; consistent with Port Policy No. AP509, the amount of the deposit exceeds three-times anticipated monthly billings.
<b>Premises:</b>	4,000 square feet of warehouse space located in Building M111 (50 Neil Armstrong Way).
<b>Capital Investment by Port:</b>	None.
<b>Maintenance responsibilities of the Port:</b>	The roof and structural elements of the building.

The space rent of \$2,000 per month is paid in addition to the commercial fee of approximately \$12,500 per month (depending on Sky Chefs' on airport revenue) resulting in anticipated total revenue of approximately \$14,500 per month.

Staff will continue to market Building M111 to full building users and Sky Chefs has indicated possible interest in reoccupying the entire building at a later date. If the building is leased to an entity other than Sky Chefs, the *SUP* will be amended to eliminate the premises while allowing Sky Chefs to continue providing aircraft catering services at OAK.



### **BUDGET & STAFFING**

The proposed action results in \$13,000 of unbudgeted revenue during FY2014-15. The proposed action does not have any staffing impact

### **MARITIME AVIATION PROJECT LABOR AGREEMENT (MAPLA)**

The action to approve the *Space/Use Permit* does 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

this *Space/Use Permit* exceeds the thresholds required for coverage under the MAPLA, the provisions of MAPLA will apply when Port Permits are requested for the construction work.

## **STRATEGIC PLAN**

The action described herein would help the Port achieve the following goals and objectives in the Port's Strategic Plan

(<http://www.portofoakland.com/pdf/about/strategicPlan2011-2015.pdf>)

### **Goal A: Create Sustainable Economic Growth for the Port and Beyond**

- Goal A: Objective 1: Maximize the use of existing assets.

### **Goal B: Maintain and Aggressively Grow Core Businesses**

- Goal B: Objective 1: Retain existing customers and tenants.

## **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"), do not apply to this agreement as the tenant does not employ 21 or more employees working on Port-related work. However, the tenant will be required to certify that should living wage obligations become applicable, the tenant shall comply with the Living Wage Regulations.

## **ENVIRONMENTAL**

CEQA: This project has been determined to be categorically exempt from the California Environmental Quality Act (CEQA) Guidelines pursuant to Section 15301, Existing Facilities, which exempts the operation, repair, maintenance, permitting, leasing, licensing, or minor alteration of existing public or private structures, facilities, mechanical equipment or topographical features, involving negligible or no expansion of use beyond that existing at the time of the lead agency's determination. Entering into the *SUP* to allow Sky Chefs to continue providing aircraft catering services and to occupy warehouse space within Building M111 is categorically exempt under 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)/ PROFESSIONAL LIABILITY INSURANCE PROGRAM (PLIP)**

The Owner Controlled Insurance Program (OCIP) and Professional Liability Insurance Program (PLIP) do not apply to the matters addressed by this Agenda Report as they are not capital improvement construction or design projects.

### **OPTIONS**

1. Adopt an Ordinance approving the terms and conditions, and authorizing execution by the Executive Director, of the proposed *Space/Use Permit* with Sky Chefs, Inc. (i) incorporating the terms of the *Right of Entry and Indemnity Agreement* and paying 10% of Sky Chefs' on-airport gross receipts to the Port, resulting in approximately \$12,500 of monthly revenue, and (ii) providing for the occupancy of 4,000 square feet of warehouse space within Building M111 for a primary term of three (3) years, with two (2) one (1) year options to renew at a rental rate of \$2,000 per month, retroactive to December 14, 2014. This is the recommended action;
2. Do not adopt an Ordinance approving the proposed *Space/Use Permit* with Sky Chefs, Inc. which would (i) allow Sky Chefs to continue service to its airline clients at OAK through the *Right of Entry and Indemnity Agreement* and paying 10% of its on-airport gross receipts to the Port, resulting in approximately \$12,500 of monthly revenue, and (ii) require Sky Chefs to move its warehouse off airport and eliminate \$2,000 per month rental revenue; or,
3. Do not approve the *Space/Use Permit* as outlined above, but recommend different terms and conditions.

### **RECOMMENDATION**

Adopt an Ordinance approving the terms and conditions, and authorizing execution by the Executive Director, of the proposed *Space/Use Permit* with Sky Chefs, Inc. incorporating the terms of the *Right of Entry and Indemnity Agreement* and providing for the occupancy of 4,000 square feet of warehouse space within Building M111 for a primary term of three (3) years, with two (2) one (1) year options to renew at a rental rate of \$2,000 per month, retroactive to December 14, 2014, all subject to review and approval as to form and legality by the Port Attorney's Office.