

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

PORT ORDINANCE NO. 4544

ORDINANCE APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE AN ENCROACHMENT AGREEMENT WITH UNION PACIFIC RAILROAD COMPANY FOR THE INSTALLATION OF RADIO FREQUENCY IDENTIFICATION DEVICE EQUIPMENT AND TRAIN DETECTION EQUIPMENT ASSOCIATED WITH THE FREIGHT INTELLIGENT TRANSPORTATION SYSTEM ("FITS") ELEMENT OF THE GOPORT PROGRAM.

WHEREAS, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the Agenda Report for Agenda Item 2.2, dated December 12, 2019 (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; and

WHEREAS, the Port and the Union Pacific Railroad Company ("UP") desire to enter into an Encroachment Agreement ("Agreement") to improve traffic and safety conditions of the Seaport, by helping to capture vehicle and train movement in an important and busy area of the Seaport; 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 approves and authorizes the execution of the Encroachment Agreement with UP on the terms and conditions outlined in the Agreement.

Section 3. The Board finds and determines that:

A. Based upon all the information received by the Port, the Agreement with UP will facilitate the installation of the train detection equipment and radio frequency identification device readers in the best and most effective location, which is on UP property. This is a direct benefit to the Port and can be accommodated without adverse impacts to the Port's maritime operations.

B. Based upon the information contained in the Agenda Report and in testimony received, the Board finds and determines that the proposed Agreement was reviewed in accordance with the requirements of the California Environmental Quality Act ("CEQA"), and no supplemental review is required under Section 15162 of the CEQA Guidelines. The 2002 Oakland Army Base Area ("OAB") Redevelopment Plan Environmental Impact Report ("2002 Redevelopment

EIR") evaluated the potential impacts of redevelopment of the 1,800-acre redevelopment area, which included the Port locations for the FITS Project components. The EIR was certified by the lead agency, the City of Oakland, in June 2002. On September 17, 2002, the Board of Port Commissioners, acting on behalf of the Port of Oakland as a responsible agency under CEQA, adopted findings and the mitigation program in the City's EIR (Resolution No. 02317). In 2012, the City of Oakland, in consultation with the Port, issued an Initial Study/Addendum to the Redevelopment EIR to evaluate proposed changes to the redevelopment plan. The Board of Port Commissioners approved the revised redevelopment plan and adopted the revised mitigation program on June 21, 2012 (Resolution No. 12-76). The Port prepared an Addendum per Section 15164 of the CEQA Guidelines to document minor changes as described in the 2002 Redevelopment Plan as addended.

Section 4. The Board hereby approves and authorizes the Executive Director of the Port ("Executive Director") to execute the Agreement with UP, subject to approval as to form and legality by the Port Attorney.

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. Unless and until a separate written agreement is duly executed on behalf of the Board as authorized by this ordinance, is signed as approved as to form and legality by the Port Attorney, and is delivered to the other contracting party, there shall be no valid or effective agreement.

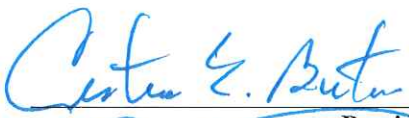
The Board of Port Commissioners, Oakland, California, December 12, 2019. Passed to print for one day by the following vote: Ayes: Commissioners Cluver, Colbruno, Lee, Leslie, Martinez, Story and President Butner - 7. Noes: 0.


Daria Edgerly

Secretary of the Board

Adopted at a Regular Meeting held January 23, 2020
by the following vote:

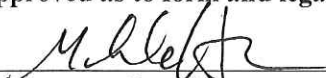
Ayes: Commissioners Colbruno, Cluver, Lee, Leslie, Martinez, Story and
President Butner - 7
Noes: 0



President.
Attest: 

Secretary.

Approved as to form and legality:



Port Attorney

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

PORT ORDINANCE NO. 4545

ORDINANCE: APPROVING AN AMENDMENT TO SPACE/USE PERMIT WITH EACH OF THE FOUR FOOD AND BEVERAGE CONCESSIONAIRES - HFF OAK VENTURE, LLC; RYLO MANAGEMENT, LLC; SOARING FOOD GROUP, LLC; AND SSP AMERICA OAK, LLC - TO INCREASE THE EMPLOYEE BENEFITS FEE, EXTEND THE TERM BY THREE MONTHS TO MARCH 31, 2030, ADD APPROXIMATELY 1,636 SQUARE FEET TO SSP AMERICA OAK, LLC'S ASSIGNED SPACE AT AN INITIAL MONTHLY RENT OF \$9,648, AUGMENT METHODS FOR ESTABLISHING THE SQUARE FOOTAGE OF EACH UNIT, FORMALLY INCORPORATE TWO UNITS INTO THE DEFINITION OF ASSIGNED SPACE FOR HFF OAK VENTURE, LLC AND SSP AMERICA OAK, LLC, CONFIRM COMMENCEMENT DATE FOR PAYMENTS INTO THE MARKETING AND MID-TERM REFURBISHMENT FUNDS, EXTEND THE RENT COMMENCEMENT DATES ON A UNIT-BY-UNIT BASIS, AUTHORIZE THE DIRECTOR OF AVIATION TO APPROVE REIMBURSEMENT THROUGH RENT CREDITS FOR CERTAIN PORT OF OAKLAND-REQUIRED IMPROVEMENTS TO BE CONSTRUCTED BY CONCESSIONAIRES IN AN AMOUNT NOT TO EXCEED \$100,000 PER UNIT, REQUIRE EACH CONCESSIONAIRE TO DEVELOP A DETAILED FACILITY AND EQUIPMENT MAINTENANCE PLAN, WAIVE THE PROHIBITION OF INSTALLING GAME AND AUTOMATED VENDING MACHINES, REQUIRE EACH CONCESSIONAIRE TO DEVELOP, PRODUCE AND DELIVER TO THE PORT A DETAILED QUARTERLY BUSINESS REPORT, AND RESTRICT THE USE OF TSA PROHIBITED ITEMS IN SSP AMERICA OAK, LLC'S PEET'S COFFEE NEAR GATES 26 AND 27 (UNIT NO. T2-FB-G27).

WHEREAS, on November 8, 2018, the Board of Port Commissioners of the City of Oakland ("Board") approved a Space/Use Permit for Food and Beverage Concession with each of the following four concessionaires - SSP America OAK, LLC ("SSP"); HFF Oak Venture, LLC ("HFF"); Soaring Food Group, LLC ("Soaring"); and Rylo Management, LLC ("Rylo") (collectively, the "Concessionaires"); and

WHEREAS, the Board has reviewed and evaluated the Agenda Report for Agenda Item 3.1, dated December 12, 2019 (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; 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 approves the terms and conditions set forth in the Agenda Report for the Amendment to Space/Use Permit with SSP, HFF, Soaring, and Rylo, including (1) increasing the Employee Benefits Fee from 3% to 5%, (2) extending the term by three (3) months to March 31, 2030, (3) adding approximately 1,636 square feet to SSP's Assigned Space at an Initial Monthly Rent of \$9,648, (4) augmenting methods for establishing the square footage of each unit, (5) formally incorporating two units into the definition of Assigned Space for HFF and SSP, (6) confirming the commencement date for payments into the Marketing and Mid-Term Refurbishment Funds, (7) extending the Rent Commencement Dates on a unit-by-unit basis not to extend beyond October 1, 2020, (8) authorizing the Director of Aviation to approve reimbursement through rent credits for certain Port-required improvements to be constructed by Concessionaires in an amount not to exceed \$100,000 per unit, (9) requiring each Concessionaire to develop a detailed facility and equipment maintenance plan, (10) waiving the prohibition of installing game and automated vending machines, (11) requiring each Concessionaire to develop, produce and deliver to the Port a detailed quarterly business report, and (12) restricting the use of TSA Prohibited Items in SSP's Peet's Coffee near Gates 26 and 27 (Unit No. T2-FB-G27), as described in the Agenda Report.

Section 3. The Board hereby authorizes the Executive Director to execute the Amendment to Space/Use Permits with each of SSP, HFF, Soaring, and Rylo and any other documents necessary to effect these proposed modifications, and to make such additions, modifications, or corrections as necessary to implement the Amendments to Space/Use Permit or to correct errors, subject to the limitations set forth herein and provided that any such addition, modification, or correction does not materially differ from the terms and conditions set forth herein and in the Agenda Report, subject to approval as to form and legality by the Port Attorney.

Section 4. The Board's previous action to approve the Space/Use Permits was determined to be exempt from the requirements of the California Environmental Quality Act ("CEQA") pursuant to Section 15301 "Existing Facilities" of the CEQA Guidelines 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. No additional environmental review is required to take the action recommended in the Agenda Report.

Section 5. This ordinance is not evidence of and does not create or constitute (a) a contract(s), 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. Unless and until a separate written contract is duly executed on behalf of the Board as authorized by this ordinance, is signed as approved as to form and legality by the Port Attorney, and is delivered to other contracting party, there shall be no valid or effective contract.

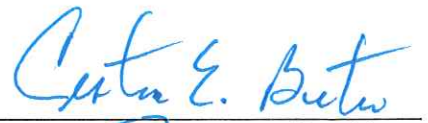
The Board of Port Commissioners, Oakland, California, December 12, 2019. Passed to print for one day by the following vote: Ayes: Commissioners Cluver, Colbruno, Lee, Leslie, Martinez, Story and President Butner - 7. Noes: 0.

Daria Edgerly

Secretary of the Board

Adopted at a Regular Meeting held January 23, 2020
by the following vote:

Ayes: Commissioners Colbruno, Cluver, Lee, Leslie, Martinez, Story and
President Butner - 7
Noes: 0



President.

Attest: _____



Secretary.

Approved as to form and legality:



Port Attorney

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

PORT ORDINANCE NO. 4546

**ORDINANCE APPROVING AN ACCESS LICENSE
AGREEMENT WITH THE CITY OF SAN LEANDRO FOR
\$500,000 IN CONSIDERATION, AND AN
ASSIGNMENT OF EASEMENT WITH HARBOR BAY ISLE
ASSOCIATES FOR NO MONETARY CONSIDERATION.**

WHEREAS, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the Agenda Report for Agenda Item 3.2, dated December 12, 2019 (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; 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 approves the terms and conditions set forth in the Agenda Report for (1) the Access License Agreement with the **City of San Leandro** for access to the Airport Perimeter Dike through the City of San Leandro's Water Pollution Control Plant for \$500,000 consideration, and (2) the Assignment of Easement with **Harbor Bay Isle Associates** ("Harbor Bay") which will assign to the Port Harbor Bay's reserved easement through a parcel currently owned by Frito Lay Corporation for no monetary consideration.

Section 3. The Board hereby authorizes the Executive Director to execute the Access License Agreement with the **City of San Leandro** and the Assignment of Easement with **Harbor Bay**, subject to approval as to form and legality by the Port Attorney.

Section 4. The Board hereby finds and determines that the requested actions are included in the Final Initial Study/Mitigated Negative Declaration determination under the California Environmental Quality Act ("CEQA"), and no further environmental review is required.

Section 5. This ordinance is not evidence of and does not create or constitute (a) a contract(s), 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. Unless and until a separate written contract is duly executed on behalf of the Board as authorized by this ordinance, is signed as approved as to form and legality by the Port Attorney, and is delivered to other contracting party, there shall be no valid or effective contract.

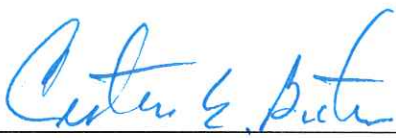
The Board of Port Commissioners, Oakland, California, December 12, 2019. Passed to print for one day by the following vote: Ayes: Commissioners Cluver, Colbruno, Lee, Leslie, Martinez, Story and President Butner - 7. Noes: 0.


Daria Edgerly

Secretary of the Board

Adopted at a Regular Meeting held January 23, 2020
by the following vote:

Ayes: Commissioners Colbruno, Cluver, Lee, Leslie, Martinez, Story and
President Butner - 7
Noes: 0



President.
Attest: 

Secretary.

Approved as to form and legality:



Port Attorney

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

PORT ORDINANCE NO. 4547

**ORDINANCE AMENDING PORT ORDINANCE NO. 867 TO CREATE
THE NEW CLASSIFICATION OF CHIEF OPERATING OFFICER.**

WHEREAS, the Board of Port Commissioners ("Board") has reviewed and evaluated the Agenda Report for Item 6.5 dated December 12, 2019 ("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; now, therefore,

BE IT ORDAINED by the Board of Port Commissioners of the City of Oakland as follows:

Section 1. Section 5.0105 is hereby added to Port Ordinance No. 867 to create the classification of Chief Operating Officer, such classification to be assigned an existing salary grade or schedule found within said ordinance.

Section 2. In acting upon the matters contained herein, 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 materials and in testimony received.

The Board of Port Commissioners, Oakland, California, December 12, 2019. Passed to print for one day by the following vote: Ayes: Commissioners Cluver, Colbruno, Lee, Leslie, Martinez, Story and President Butner - 7. Noes: 0.

Daria Edgerly

Secretary of the Board

Adopted at a Regular Meeting held January 23, 2020
by the following vote:

Ayes: Commissioners Colbruno, Cluver, Lee, Leslie, Martinez, Story and
President Butner - 7
Noes: 0

President.

Attest:

Secretary.

Approved as to form and legality:

Port Attorney