

**BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND**

1/26/2023
Item No.: 6.1
CT/pcm

ncp

ORDINANCE (1) AUTHORIZING AN ADDITIONAL NOT-TO-EXCEED AMOUNT OF \$1,000,000 OF REIMBURSEMENT TO FOOD AND BEVERAGE CONCESSIONAIRES FOR ADDITIONAL PORT INFRASTRUCTURE IMPROVEMENTS CONSTRUCTED BY THE FOOD AND BEVERAGE CONCESSIONAIRES ON BEHALF OF THE PORT; AND (2) APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE AMENDMENTS TO THE SPACE/USE PERMITS WITH THE FOOD AND BEVERAGE CONCESSIONAIRES TO DELETE THE \$100,000 PER UNIT CAP AND ESTABLISH A COMBINED PORT INFRASTRUCTURE REIMBURSEMENT FUND FOR INFRASTRUCTURE IMPROVEMENTS CONSTRUCTED BY THE FOOD AND BEVERAGE CONCESSIONAIRES ON BEHALF OF THE PORT FOR A NOT-TO-EXCEED AMOUNT OF \$3.8 MILLION FOR THE 18 FOOD AND BEVERAGE UNITS.

WHEREAS, the Board of Port Commissioners of the City of Oakland ("Board") has reviewed and evaluated the Agenda Report for Agenda Item 6.1, dated January 26, 2023 (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. The Board hereby finds and determines that the proposed action is not subject to the California Environmental Quality Act ("CEQA") under the general rule exclusion under Section 15061(b)(3) of the CEQA Guidelines because it can be seen with certainty that the proposed action will not have a significant effect on the environment and therefore is not a "project" under CEQA.

Section 2. 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 3. The Board hereby authorizes an additional not-to-exceed amount of \$1,000,000 of reimbursement to HFF Oak Venture, LLC, NNF Grewal, Inc, Rylo Management, Soaring Food Group, LLC, SSP America OAK, LLC, and HG OAK F&B Concessionaires, JV (collectively, the "Food and Beverage Concessionaires"), and approves the terms and conditions set forth in the Agenda Report for the amendments to the Space/Use Permits ("SUP") with the Food and Beverage Concessionaires to delete the \$100,000 per Unit cap and establish a combined Port infrastructure reimbursement fund for infrastructure improvements constructed by the Food and Beverage Concessionaires on behalf of the Port for a not-to-exceed amount of \$3.8 million for the 18 food and beverage units.

Section 4. The Board hereby authorizes the Executive Director of the Port to execute the amendments to the SUPs with the Food and Beverage Concessionaires, subject to approval as to form and legality by the Port Attorney, and make any additions, modifications, or corrections as necessary to implement the amendments to the SUPs, 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 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 Port. 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.

Section 6. This Ordinance shall take effect on the date of its final adoption; provided, however, that if a petition protesting the adoption of this Ordinance is timely and duly submitted to the elections official of the City of Oakland in the manner required under California Elections Code § 9237, the effective date of this Ordinance shall be suspended, and all actions authorized by this Ordinance shall be null and void.

President.

Attest: _____
Secretary.

Approved as to form and legality:

Port Attorney