

PORT ORDINANCE NO. 4477

ORDINANCE APPROVING AMENDMENT NO. 3 TO SPACE/USE PERMIT FOR NON-EXCLUSIVE IN-TERMINAL ADVERTISING CONCESSION WITH CLEAR CHANNEL OUTDOOR DBA CLEAR CHANNEL AIRPORTS TO EXTEND THE TERM ON A MONTH-TO-MONTH BASIS UNTIL MARCH 31, 2019 WITH GUARANTEED MONTHLY RENT OF \$35,000.

WHEREAS, on June 8, 2008, the Board of Port Commissioners of the City of Oakland ("Board") adopted Ordinance No. 4060 approving a Space/Use Permit ("SUP") with Clear Channel Outdoor dba Clear Channel Airports ("Clear Channel") for a term of 10 years, commencing July 1, 2008 and terminating June 30, 2018, with initial rent of the higher of a minimum annual guarantee ("MAG") of \$9.1 Million and 50% of gross receipts; and

WHEREAS, on September 28, 2009, the Board approved Amendment No. 1 to the SUP adjusting the MAG from \$9.1 Million to \$8.6 Million and increasing the percentage of gross receipts from 50% to 60%; and

WHEREAS, on February 23, 2017, the Board approved Amendment No. 2 to the SUP to correct and resolve rental calculation issues identified following the Ports' Office of Audit Services' audit of Clear Channel from January 1, 2012 through December 31, 2014; and

WHEREAS, the Board has reviewed and evaluated the Agenda Report for Agenda Item 6.1, dated May 24, 2018 (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 No. 3 to SUP with Clear Channel to extend the term of the current SUP on a month-to-month basis from July 1, 2018 through March 31, 2019 at a new minimum monthly guarantee of \$35,000/month until a new in-terminal advertising concession proposal is awarded in early 2019, and to require Clear Channel to remove two hotel/motel information boards located in baggage claim areas of Terminal 1 and Terminal 2, as described in the Agenda Report.

Section 3. The Board hereby authorizes the Director of Aviation to execute Amendment No. 3 to Space/Use Permit with Clear Channel, subject to approval as to form and legality by the Port Attorney.

Section 4. The Board hereby finds and determines that renewals, extensions or amendments to leases or to license and concession agreements, or the execution of leases or license and concession agreements, where the premises or license activity was previously leased or licensed to the same or another person and involving negligible or no expansion of use beyond that previously existing is categorically exempt from the California Environmental Quality Act ("CEQA").

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, May 24, 2018.
Passed to print for one day by the following vote: Ayes: Commissioners Butner, Cluver, Colbruno, Hamlin, Martinez, Yee and President Story - 7. Noes: 0.

Daria Edgerly
Secretary of the Board