

## AGENDA REPORT

**Ordinance:** Adoption of an Ordinance Approving: (i) a *First Amendment to a Space/Use Permit* with Swissport Fueling, Inc., Currently Generating Approximately \$432,000 in Annual Revenue, to Extend the Outside Expiration Date from June 30, 2019 to June 30, 2023; and, (ii) a *Space/Use Permit* with Eastern Aviation Fuels, Inc. dba Titan Aviation Fuels, with anticipated annual revenues of \$52,000, Operating at Oakland International Airport. **(Aviation)**

**MEETING DATE:** 6/13/2019

**AMOUNT:** \$484,000 (FY 2018/19) Revenue

**PARTIES INVOLVED:** **Swissport Fueling, Inc.**  
Dulles, Virginia  
Mark Norris, Senior Vice President

**Eastern Aviation Fuels, Inc. dba Titan Aviation Fuels**  
New Bern, North Carolina  
Robert L. Stallings, President

**SUBMITTED BY:** Bryant L. Francis C.M., Director of Aviation

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

**ACTION TYPE:** Ordinance

### **EXECUTIVE SUMMARY**

This action would give first reading to an ordinance to: (i) approve a *First Amendment to a Space/Use Permit* (“*Amendment*”) with Swissport Fueling, Inc. (“Swissport”), who is an airline services provider operating at Oakland International Airport (“OAK”), to extend the Outside Expiration Date from June 30, 2019 to June 30, 2023; (ii) approve the terms and conditions of a *Space/Use Permit* with Eastern Aviation Fuels, Inc. dba Titan Aviation Fuels (“Eastern Aviation”) who is an airline services provider operating at OAK (the “*Eastern SUP*”); and (iii) authorize the Executive Director’s execution of these agreements.

### **BACKGROUND**

Airline services providers are third-party companies that provide various services to passenger and air cargo airlines, as well as commercial and general aviation including: passenger, ground and cargo handling; catering services; aircraft washing; airline tenant space janitorial services; aircraft maintenance and repair; passenger, catering and cargo security; fueling; and

specialized equipment maintenance and repair. Individual companies may not offer all of these airline services.

The Port treats aircraft fueling differently depending on the location of the operation:

- South Field: All fueling facilities are operated by the Oakland Fuel Facilities Corporation (“OFFC”) pursuant to a lease with the Port. OFFC is a consortium of most passenger and air cargo airlines operating at the Airport that has invested more than \$30 million in capital improvements in the South Field Tank Farm and Hydrant Fuel System located throughout the airfield. In exchange for this capital investment, OFFC – or its member airlines – does not pay fuel flowage fees, but any ground handler providing into plane fueling services would pay the standard fee of a minimum \$250.00 per month against 10% of gross revenues.
- North Field: Except for OFFC member airlines who may operate on the North Field (in which case the ground handler is subject to the standard fee of a minimum \$250.00 per month against 10% of gross revenues), fueling fees are assessed by the Port as follows: \$0.085 (8.5¢) per gallon for all fuel sold to based<sup>1</sup> tenants as contracted fuel and \$0.21 (21¢) per gallon for all other fuel sold to non-based tenants.

Swissport has been a fueler since 1990 and at OAK, Swissport has been contracted by all commercial and most cargo airlines to provide into plane fueling services at both the South Field and North Field. At its meeting on May 8, 2014, the Board approved a *Space/Use Permit* with Swissport (the “*Swissport SUP*”) which terminates on June 30, 2019 and has no option to extend.

Eastern Aviation has been a fueler since 1975 and currently operates in 550 Fixed Base Operator<sup>2</sup> locations throughout the country. At OAK, Eastern Aviation has been contracted by JetSuiteX (“JSX”), a subtenant of Signature Flight Support, to provide into plane fueling services in the North Field. JSX contracted with Eastern Aviation in December of 2017 (without benefit of a contract with the Port) to provide into plane fueling. Eastern Aviation has agreed to a retroactive commencement date of the *Eastern SUP* including payment to the Port of the rental fees that would be owed to the Port if under an executed contract.

## **ANALYSIS**

Swissport: The *Amendment* with Swissport will extend the term of the *Swissport SUP* for four years<sup>3</sup>, terminating on June 30, 2023, with a 30-day termination provision (either party may

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<sup>1</sup> A based tenant aircraft means any aircraft owned or operated by a person who leases space from the Port or who subleases space from a FBO.

<sup>2</sup> FBOs conduct a wide range of aeronautical support activities including, but not limited to fueling, maintenance and charter flights. In addition, FBOs located at OAK lease hangar, aircraft apron and support space from the Port, and then sublease some of that space to corporate clients.

<sup>3</sup> Pursuant to Ordinance No. 4480 adopted by the Board of Port Commissioners on June 28, 2017, seventy existing agreements at the Airport – including space/use permits with airline services providers – were extended to June 30, 2023 (subject to 30-day termination by either party). It is proposed that the

terminate on 30 days' written notice) and authorizes access to the Airport to provide third-party airline services. No premises are provided for Swissport. Pursuant to Rates & Charges Ordinance No. 4430 adopted by the Board on July 13, 2017, consideration is a minimum monthly fee of \$250.00 or 10% of gross revenues, whichever is greater. The terms and conditions of the *Swissport SUP* as amended by the *Amendment*, are as follows, including anticipated revenue payable to the Port:

Commencement Date:	July 1, 2019
Term:	Four (4) Years <sup>2</sup> , terminable on 30 days' notice
Expiration Date:	June 30, 2023
Anticipated Revenue to Port:	~ \$250.00 per Month or 10% of Gross Revenues, whichever is greater (anticipated to be \$36,000 per month)
Performance Deposit:	\$75,000; approximately 2x average monthly billings <sup>4</sup> , based on Swissport's excellent payment history.

Eastern Aviation: The *Eastern SUP* will have a term of approximately five-years and seven-months, terminating on June 30, 2023, with a 30-day termination provision (either party may terminate on 30 days' written notice) and authorizes access to the Airport to provide third-party airline services. No premises are provided. While providing into plane fueling services on the North Field, Eastern Aviation will pay to the Port a portion of the charged fueling fees as follows: \$0.085 per gallon of fuel for all fuel sold to based tenants as contracted fuel; and \$0.21 per gallon of fuel for all other fuel sold to non-based tenants. The rates charged are consistent with other North Field fueling companies and are only applicable to based and non-base tenants in the North Field. If Eastern Aviation starts providing into plane fueling at the South Field, fees paid to the Port would be consistent with the *Swissport SUP*. Since December 2017 Eastern Aviation has remitted payments to the Port that total \$52,321.36. The terms and conditions of the *Eastern SUP* are as follows, including anticipated revenue payable to the Port:

Commencement Date:	December 1, 2017
Term:	Approximately Five (5) Years and Seven (7) Months <sup>2</sup> , terminable on 30 days' notice
Expiration Date:	June 30, 2023
Anticipated Revenue to Port:	~ \$52,000 per Year based (i) on \$0.085 per gallon of fuel for all fuel sold to base tenants as contracted fuel; and \$0.21 per gallon of

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*Eastern SUP* with Eastern Aviation and the *Swissport SUP* with Swissport, as documented in the *Amendment*, have a term expiring concurrent with these other similar agreements.

<sup>4</sup> Pursuant to Port Policy No. AP 509, Performance Deposits (Section III.C.2.e.) shall be equal to three months of average billings; based on Swissport's excellent payment history, Staff is recommending a multiple of two months' average billings.

fuel for all other fuel sold to non-base tenants, for operations on the North Field, plus (ii) 10% of Gross Revenues for operations on the South Field (note that Eastern Aviation does not currently provide into plane fueling services at the South Field).

Performance Deposit: \$12,000 (approximately 3x average monthly billings)

## **BUDGET & STAFFING**

During the development of the FY2018-19 Operating Budget, revenue of \$432,000 (\$36,000 per month) attributable to Swissport was included. However, this new *Eastern SUP* was not contemplated, so the anticipated revenue of approximately \$52,000 for this service provider is incremental new revenue. There is no staffing impact.

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

The matters included in this Agenda Report do 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.

## **STRATEGIC PLAN**

The action described herein would help the Port achieve the following goals and objectives in the Port's Strategic Business Plan (2018-2022).

<https://www.portofoakland.com/wp-content/uploads/Port-of-Oakland-Strategic-Plan.pdf>

Goal: Grow Net Revenues

Goal: Improve Customer Service

## **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"), apply to this agreement as the tenant employs 21 or more employees working on Port-related work and the tenancy agreement is greater than \$50,000.

## **SUSTAINABILITY**

The tenant has not proposed any development for the leased area. If the tenant decides to develop the site in the future, the tenant must comply with the 2000 Sustainability Policy and complete the Sustainability Opportunities Assessment Form.

## **ENVIRONMENTAL**

This action has been determined to be categorically exempt from requirements of 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. No changes to the premises or use are proposed.

## **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)**

The Owner Controlled Insurance Program (OCIP) does not apply to the matters addressed by the Agenda Report as they are not capital improvement construction projects.

## **OPTIONS**

1. Adopt an Ordinance that provides for the following:
  - a. Amend the *Space/Use Permit* between the Port and with Swissport Fueling, Inc, extending the term of the agreement for four years, terminating on June 30, 2023 as documented in the *Amendment* and approve a Performance Deposit of \$75,000 representing approximately two-times average monthly billings.
  - b. Approve the terms and conditions of the standard form *Space/Use Permit* with Eastern Aviation Fuels, Inc. dba Titan Aviation Fuels, as outlined above, thereby permitting Eastern Aviation to continue to provide fueling services to Jet Suite X on the same terms and conditions as other fueling providers also operating in the North Field at Oakland International Airport.
  - c. Authorize the Executive Director's execution of the *Amendment* with Swissport and the *Space/Use Permit* with Eastern Aviation.

This is the recommended action.

2. Do not approve the proposed *Amendment* to the *Swissport SUP* and do not approve the new *Eastern SUP* as outlined above which would (i) result in the termination of Swissport and Eastern Aviation's operating privileges at OAK, including providing valuable fueling services to both the North Field and South Field tenants, and (ii) potentially harm the Port's relationship with its passenger and air cargo airlines in the South Field and with JSX, a subtenant of Signature Flight Support, in the North Field.
3. Do not approve the proposed *Amendment* to the *Swissport SUP* and do not approve the new *Eastern SUP* with Eastern Aviation as outlined above and proposed by Staff,

but recommend different terms and conditions and instruct staff to negotiate with Swissport and Eastern Aviation.

### **RECOMMENDATION**

It is recommended the Board adopt an Ordinance:

- Approving a *First Amendment to a Space/Use Permit* with Swissport Fueling, Inc; and,
- Approving a *Space/Use Permit* with Eastern Aviation Fuels, Inc. dba Titan Aviation Fuels; and,
- Authorizing the Executive Director to execute the *First Amendment to a Space/Use Permit* with Swissport Fueling, Inc., the *Space/Use Permit* with Eastern Aviation, Inc. dba Titan Aviation Fuels, and any other documents to effect the proposed transactions,

All subject to approval by the Port Attorney as to form and legality.