

BOARD OF PORT COMMISSIONERS
CITY OF OAKLAND

12/12/19

Item 3.1

CT/msr
CT MA

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.

President.

Attest: _____
Secretary.

Approved as to form and legality:

Port Attorney