

PORT ORDINANCE NO. 4613

ORDINANCE APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR TO EXECUTE A SPACE/USE PERMIT FOR FOOD AND BEVERAGE CONCESSION WITH NFF GREWAL, INC. ("GREWAL") FOR SPACE AT OAKLAND INTERNATIONAL AIRPORT UNDER THE SAME TERMS AND CONDITIONS AS THE AMENDED AND RESTATED SPACE/USE PERMIT FOR FOOD AND BEVERAGE CONCESSION AUTHORIZED WITH FOUR OTHER FOOD AND BEVERAGE CONCESSIONAIRES, FOR A TERM EXPIRING AT THE LATEST ON MARCH 31, 2035.

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 ("SUP") with each of the following four concessionaires - SSP America OAK, LLC ("SSP"); HFF Oak Venture, LLC ("HFF"); Soaring Food Group, LLC and later assigned to Soaring Food Group II, LLC ("Soaring"); and Rylo Management, LLC ("Rylo") (collectively, the "F&B Concessionaires") at Oakland International Airport ("Airport"); and

WHEREAS, on March 11, 2021, the Board approved an amendment to SUP with HFF to delete Food and Beverage Concession Unit No. T2-FB-C2-1 from the definition of Assigned Space in the SUP and simultaneously approve a new SUP between the Port of Oakland ("Port") and Grewal for the same Food and Beverage Concession Unit No. T2-FB-C2-1 under the same terms and conditions as between the Port and the other four F&B Concessionaires; and

WHEREAS, on May 13, 2021, the Board approved Amended and Restated Space/Use Permits with the four F&B Concessionaires that, among other amendments, extended the latest expiration date to March 31, 2035; and

WHEREAS, the Board has reviewed and evaluated the Agenda Report for Agenda Item No. 6.2, dated September 16, 2021 (the "Agenda Report") and related agenda materials, has received the expert testimony of 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 Board's previous action to approve entering into the SUPs with the F&B Concessionaires 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. Approval of the SUP falls within this class of

exemptions. No additional environmental review is required to take the action recommended in the Agenda Report.

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 approves the terms and conditions set forth in the Agenda Report for the SUP with Grewal under the same terms and conditions as between the Port and the other four F&B Concessionaires as outlined in the Agenda Report, including extending the term to the latest expiration date to March 31, 2035.

Section 4. The Board hereby authorizes the Executive Director to execute the SUP with Grewal, and any other documents necessary to effect this tenancy and operations, and to make such additions, modifications, or corrections as necessary to implement the SUP 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 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.

The Board of Port Commissioners, Oakland, California, September 16, 2021.
Passed to print for one day by the following vote: Ayes: Commissioners Butner, Colbruno, Lee, Leslie, Martinez, Story and President Cluver - 7. Noes: 0.

Daria Edgerly

Secretary of the Board