

## **SUBSTITUTE ORDINANCE**

**WHEREAS**, the City of Chicago (“City”) is a home rule unit of government as defined in Article VII, §6(a) of the Illinois Constitution, and, as such, may exercise any power and perform any function pertaining to its government and affairs; and

**WHEREAS**, the City owns and operates Chicago O’Hare International Airport (“O’Hare”) and Midway International Airport (“Midway”) (the “Airports”) and possesses the power and authority to lease its premises and facilities and to grant other rights and privileges with respect thereto; and

**WHEREAS**, the City is vested with authority to provide for the needs of aviation, commerce, shipping, and traveling to and around the Airports to promote and develop the Airports, and, in the exercise of such power, to enter into agreements with entities to manage City-owned properties at the Airports, upon such terms and conditions as the corporate authorities of the City shall approve; and

**WHEREAS**, the United States Secretary of Health and Human Services (“HHS”) declared a public health emergency on January 31, 2020, under section 319 of the Public Health Service Act (42 U.S.C. 247d) and March 1, 2020, pursuant to sections 201 and 301 of the National Emergencies Act (50 U.S.C. 1601 et seq.) and consistent with section 1135 of the Social Security Act (SSA), as amended (42 U.S.C. 1320b-5), it was found and proclaimed that the COVID-19 outbreak in the United States constituted a national emergency (the “COVID-19 Pandemic”); and

**WHEREAS**, the COVID-19 Pandemic led to a dramatic reduction in travel over the course of several years along with additional impacts on the operation of existing concessions and the development of new ones, including significant impacts to the supply chain of goods needed for construction and operation and the availability of labor; and

**WHEREAS**, on May 20, 2020, this City Council passed an ordinance enabling the Commissioner of the Chicago Department of Aviation (“CDA”) (“Commissioner”) to provide certain relief to airport concessionaires (as defined by 49 CFR § 23.3) at the Airports (“Concessionaires”), City Council Journal of Proceedings, May 20, 2020, pages 16956-16959 (“2020 Ordinance”), which provided for relief in the form of any of the following, as applicable: (A) rent reductions; (B) adjustments to minimum rent; (C) rent deferral; (D) reduced security deposit or letter of credit requirements; (E) relaxation of mandatory minimum or maximum operating space requirements; (F) short extensions of term to extend amortization of costs; (G) authorization of operational alternatives including but not limited to kiosks, retail merchandising units, food carts, mobile drink dispensers and other mobile facilities, subject to applicable ordinances and laws; or (H) other relief consistent with federal airport grant assurances and other legal requirements (the “2020 Relief”); and

**WHEREAS**, the 2020 Ordinance provided for the 2020 Relief not to exceed three years, and the three-year period for the 2020 Relief began retroactively on April 1, 2020, and ended on March 31, 2023; and

**WHEREAS**, while the 2020 Relief and additional federal monetary relief provided to Concessionaires was extremely beneficial in allowing Concessionaires to continue operating at the Airports, many Concessionaires, including many Airport Concessionaire Disadvantaged Business Enterprises (ACDBEs) and other small businesses, continue to struggle with having

sufficient term remaining in their leases to recoup necessary capital investments in their businesses, and to meet the terms of development schedules set prior to the COVID-19 Pandemic, as well as additional hardships brought about by the effects of the COVID-19 Pandemic; and

**WHEREAS**, as a result of the continuing impact of the COVID-19 Pandemic, this City Council wishes to extend the authority of the Commissioner to grant additional term extensions to Concessionaires, at the Commissioner's discretion; to alter the schedules of development that had been agreed to prior to the COVID-19 Pandemic; and to alter the terms of limitation on ownership agreed to prior to the COVID-19 Pandemic; and

**WHEREAS**, such additional term extensions would be limited to three additional years at Midway, plus an additional year at the City's sole discretion, and to two additional years at O'Hare and all leases which cover both O'Hare and Midway; and

**WHEREAS**, this City Council hereby finds and determines that the provisions of this Ordinance are public purposes for the benefit of the people of the City and its Airports; and

**WHEREAS**, this City Council further finds that the purpose of this Ordinance is, in part, to protect and preserve the employment of individuals affected by the economic impacts of the pandemic at the Airports and to stimulate commercial growth and remove economic stagnation that would otherwise occur without the benefits provided in this Ordinance; and now, therefore:

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO:**

**SECTION 1.** The above recitals are incorporated by reference as if fully set forth herein.

**SECTION 2.** Subject to the criteria in Section 3 of this ordinance, the Commissioner or her designee is hereby authorized to execute, at her discretion, with the approval of the Commissioner of the Department of Business Affairs and Consumer Protection ("BACP"), and the approval of the Corporation Counsel as to form and legality, changes to existing agreements with Concessionaires to provide for (A) an additional term not to exceed three additional years, plus an additional year at the City's sole discretion, at Midway, and two additional years at O'Hare and all leases which cover both O'Hare and Midway; (B) an update to development schedules set prior to the COVID-19 Pandemic; and (C) an alteration of the terms of limitation on ownership agreed to prior to the COVID-19 Pandemic (the "2023 Relief"). The 2023 Relief must be granted in the form of an amendment to an existing concessions agreement, which amendment must be executed by December 31, 2023. The 2023 Relief is available only to Concessionaires' concession agreements in effect at the time of the passage of this ordinance, including those concessions agreements on a month-to-month tenancy. The 2023 Relief may be conditioned on Concessionaires' compliance with such requirements as are determined by the Commissioner to serve the interests of the City in maintaining a strong and resilient concessions program at the Airports. To implement this Section, the Commissioner may amend agreements with Concessionaires. Such amendments may not revisit contract terms unrelated to the 2023 Relief under this section if not at least as favorable to the City as those in the currently applicable agreement.

**SECTION 3.** The Commissioner's exercise of authority under Section 2 of this ordinance shall be applied in accordance with Federal Aviation Administration guidance as well as other applicable legal requirements and applied objectively and uniformly to similarly situated

businesses.

**SECTION 4.** The Commissioner, with the advice and consent of the Corporation Counsel and the Commissioner of BACP, is authorized to promulgate rules governing the programs and 2023 Relief described in the sections above. CDA will notify the City Council Committee on Aviation within 30 days of the promulgation of such rules and any amendments made thereto.

**SECTION 5.** The Commissioner and her designees are authorized to take such actions and execute such other documents as may be necessary or desirable to implement the objectives of this ordinance.

**SECTION 6.** This ordinance shall take effect immediately upon its passage and approval.