



AGENDA STAFF REPORT

ASR Control 21-001095

MEETING DATE: 01/11/22
LEGAL ENTITY TAKING ACTION: Board of Supervisors
BOARD OF SUPERVISORS DISTRICT(S): 5
SUBMITTING AGENCY/DEPARTMENT: John Wayne Airport (Pending)
DEPARTMENT CONTACT PERSON(S): Richard Francis (949) 252-5166
 Evanna Barbic (949) 252-5232

SUBJECT: Approve Consent to Assignment of Specialty Coffee Concession Lease

CEO CONCUR Pending Review	COUNTY COUNSEL REVIEW Approved Agreement to Form	CLERK OF THE BOARD Discussion 3 Votes Board Majority
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Budgeted: N/A **Current Year Cost:** N/A **Annual Cost:** N/A
Staffing Impact: No **# of Positions:** **Sole Source:** N/A
Current Fiscal Year Revenue: N/A
Funding Source: N/A **County Audit in last 3 years:** No

Prior Board Action: 12/10/2019 #21, 08/27/2019 #20

RECOMMENDED ACTION(S):

Approve and execute the Consent to Assignment of Interest in Lease for the Specialty Coffee Concession from Bambuza South Waterfront, LLC dba Bambuza OC Ventures, LLC dba The Coffee Bean & Tea Leaf to Bambuza OC Ventures, LLC dba The Coffee Bean & Tea Leaf.

SUMMARY:

Approval of the Consent to Assignment will allow transfer of the Specialty Coffee Concession Lease from Bambuza South Waterfront, LLC dba Bambuza OC Ventures, LLC dba The Coffee Bean & Tea Leaf to Bambuza OC Ventures, LLC dba The Coffee Bean & Tea Leaf to reflect the true legal entity operating at John Wayne Airport.

BACKGROUND INFORMATION:

On August 27, 2019, after a competitive Request for Proposal process, the Board of Supervisors (Board) awarded the Specialty Coffee Concession Lease to Bambuza South Waterfront, LLC dba Bambuza OC Ventures, LLC dba The Coffee Bean & Tea Leaf. On December 10, 2019, the Board approved Amendment One to the Concession Lease, adjusting the Tenant Infrastructure Fee to accurately reflect the cost recovery and long-term amortization of airport concession infrastructure improvements. The term of the Lease is for 10 years commencing on the date of beneficial occupancy. Approval of this assignment will reflect the true

legal entity operating at John Wayne Airport (JWA). All original terms and conditions of the Lease agreement remain unchanged.

Bambuza OC Ventures, LLC dba The Coffee Bean and Tea Leaf (Bambuza) will operate Coffee Bean & Tea Leaf locations in Terminals A, B and C.

Section 8.01 of the Lease requires the County's written consent to change the name of Bambuza in the Lease. Bambuza represents that the members, structure and business model of the Assignee will be identical to the existing Tenant.

JWA seeks Board approval to assign this lease to Bambuza OC Ventures, LLC, dba the Coffee Bean & Tea Leaf, and under the assignment it will not relieve Bambuza OC Ventures, LLC dba the Coffee Bean & Tea Leaf to pay rent and to perform all of the other obligations under the lease.

Compliance with CEQA: The proposed project was previously determined to be Categorically Exempt from CEQA pursuant to Section 15301 (Class 1) of the CEQA Guidelines, on August 27, 2019, when it was originally approved. CEQA Guidelines Section 15301 provides for the lease of the existing public structures, involving negligible or no expansion of existing former use. The proposed project is still consistent with this determination.

FINANCIAL IMPACT:

N/A

STAFFING IMPACT:

N/A

ATTACHMENT(S):

Attachment A – Consent to Assignment of Interest in Lease

CONSENT TO ASSIGNMENT OF INTEREST IN LEASE

This CONSENT TO ASSIGNMENT OF INTEREST IN LEASE (“Consent to Assignment”) is made and entered into as of the ____ day of _____, 2022 (“Effective Date”), by and between the County of Orange, a political subdivision of the State of California (“County”), Bambuza South Waterfront, LLC dba Bambuza OC Ventures, LLC dba the Coffee Bean & Tea Leaf (“Assignor”), and Bambuza OC Ventures, LLC dba The Coffee Bean & Tea Leaf (“Assignee”). County, Assignor, and Assignee may sometimes hereinafter individually be referred to as “Party” or jointly as “Parties.”

RECITALS

WHEREAS, County, through its Board of Supervisors, is the owner and proprietor of John Wayne Airport (“JWA” or “Airport”), located in the County of Orange, State of California and operates and maintains the Airport as a governmental function for the primary purpose of providing air transportation to the public.

WHEREAS, on August 27, 2019, County entered into a Lease with Assignor for the operation of a Specialty Coffee Concession at John Wayne Airport with a (“Lease”); and

WHEREAS, Assignor has requested that County approve the assignment of Assignor’s leasehold interest in the Lease to Assignee; and

WHEREAS, in accordance with the terms of the “Assignment and Assumption Agreement,” dated November 4, 2021 (the “Transfer Document”), a copy of which is attached hereto as EXHIBIT A and by reference made a part hereof, Assignor proposes to assign all right, title and interest in the Lease to Assignee and Assignee desires to accept from Assignor all right, title and interest subject to the terms and conditions set forth in this Consent to Assignment.

NOW THEREFORE, in consideration of the above, County hereby consents to the assignment of leasehold interest in the Lease from Assignor to Assignee subject to the following terms and conditions:

A. Assignor assigns and transfers to Assignee all its right, title and interest in the Lease. However, no assignment, even with County approval, shall relieve Assignor of its obligations to pay the rent and to perform all of the other obligations to be performed by Assignee. This Consent to Assignment does not relieve Assignor of any interest, responsibility or liability in or under the terms of the Lease. Both Assignor and Assignee will be fully responsible for complying with all provisions of the Lease and will both be directly liable for all obligations under the Lease. Assignee accepts the assignment and assumes and agrees to perform from the date the assignment becomes effective, as a direct obligation to County, all the provisions of the Lease.

B. In the event of any conflict between the provisions of the Lease, as amended, or as said Lease may from time to time be amended in the future, and the provisions of the Transfer Document, the provisions of the Lease shall control.

C. In the event of any conflict between the provisions of this Consent to Assignment of Interest in Lease and the provisions of the Transfer Document, the provisions of this Consent to Assignment shall prevail.

D. The Parties understand that the consent hereby given to the execution of the Transfer Document referred to herein is a mere accommodation and that County is in no way obligated by, or under any duty whatsoever with regard to the terms and conditions of said Transfer Document.

E. Any additions or modifications to said Transfer Document shall first be approved by County's Airport Director ("Director"). Assignor and Assignee warrant that all documents and agreements pertaining to the leasehold assignment have been fully disclosed to the Director.

F. Assignor's use of the leasehold premises is limited to the operation of a Specialty Coffee Concession, specifically a Coffee Bean & Tea Leaf, as set forth more fully in the Lease. All other activities shall be subject to the prior written approval of the Director.

G. This Consent to Assignment shall be binding on and inure to the benefit of the Parties hereto, their heirs, executors, administrators, successors in interest and assigns.

H. The Recitals paragraphs above are hereby incorporated by this reference.

I. This Consent to Assignment shall be governed by and construed in accordance with California law.

J. As it relates to the profit, if any, received by Assignor from Assignee pertaining to the value of Assignor's leasehold interest, for which the County is entitled, at County request, a copy of the Assignor's tax return shall be provided to County to verify the value reported.

K. From and after the Effective Date, notices under the Lease shall be sent to the following address:

Bambuza OC Ventures, LLC dba The Coffee Bean & Tea Leaf
5921 NE 80th Ave.
Portland, OR 97218

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IN WITNESS WHEREOF, the Parties hereto have executed this Consent to Assignment as of the day and year first above written.

ASSIGNOR:


Bambuza South Waterfront, LLC dba
Bambuza OC Ventures, LLC dba The
Coffee Bean & Tea Leaf

By: 
Name: Daniel Nguyen
Title: Managing Member

By: _____
Name: _____
Title: _____

ASSIGNEE:

Bambuza OC Ventures, LLC dba The
Coffee Bean & Tea Leaf

By: 
Name: Daniel Nguyen
Title: Managing Member

By: _____
Name: _____
Title: _____


APPROVED AS TO FORM:

County Counsel

By: 

APPROVED AS TO AUDIT AND ACCOUNTING:

Auditor-Controller

By: 

RECOMMENDED FOR APPROVAL:

John Wayne Airport

By: 
Richard Francis
Interim Airport Director

Signed and certified that a copy of this document has been delivered to the Chair of the Board per G.C. Sec. 25103, Reso 79-1535
Attest:

Robin Stieler
Clerk of the Board of Supervisors
of Orange County, California

COUNTY

COUNTY OF ORANGE

By: _____
Chairman, Board of Supervisors

ATTACHMENT A

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT ("Assignment") is entered into as of 11/4 2021 by and between BAMBUZA SOUTH WATERFRONT LLC, an Oregon limited liability company ("Assignor"), and BAMBUZA OC VENTURES, LLC, a California limited liability company ("Assignee").

Recitals

A. Assignor is the present Lessee under that certain Specialty Coffee Concessions Lease (PM 1121-0350-0009) dated 29th of August, 2019 (the "Master Lease") with the County of Orange (the "County").

B. Principals of Assignor are also principals of Assignee and desire to assign to Assignee all of Assignor's right, title and interest of Assignor in and to the Master Lease and the Master Premises.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor and Assignee agree as follows:

1. **Assignment.** Effective as of the date hereof and the written consent of the County, Assignor hereby grants, sells, conveys, assigns, transfers, and delivers unto Assignee and its successors and assigns, all of Assignor's right, title and interest in and to the Master Lease and the Master Premises, including, without limitation, all of the rights, powers, estates and privileges of the Lessee in, to and under the Master Lease.

2. **Assumption.** Assignee hereby accepts the foregoing assignment and agrees to assume and perform all of the Assignee's covenants, conditions and obligations under the Master Lease as of the consent to this Assignment by the County.

3. **Miscellaneous.**

(a) All of the covenants, terms and conditions set forth herein, shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

(b) No waiver or breach of any covenant or provision shall be deemed a waiver of any other covenant or provision. No waiver shall be valid unless in writing and executed by the waiving party.

(c) This Assignment may be executed in one or more counterparts, each of which shall be deemed an original and all of which taken together shall constitute one and the same agreement.

(d) Whenever requested to do so by the other party, each party shall execute, acknowledge and deliver any further instruments, approvals, consents or such other documents that are necessary, expedient or proper to complete any conveyances, transfers, sales and assignment contemplated by this Assignment. In addition, each party shall do any other acts and execute, acknowledge and deliver any requested documents in order to carry out the intent and purpose of this Assignment.

(e) This Assignment shall be governed and construed in accordance with California law.

This Assignment is executed and delivered as of the date first written above.


ASSIGNOR:

ASSIGNEE:

BAMBUZA SOUTH WATERFRONT LLC
, an Oregon limited liability company

BAMBUZA OC VENTURES LLC
a California limited liability company

By: 
Name: Daniel Nguyen
Title: Managing Member

By: 
Name: Daniel Nguyen
Title: Managing Member

BAMBUZA SOUTH WATERFRONT LLC
an Oregon limited liability company

BAMBUZA OC VENTURES LLC
a California limited liability company